1245.

SUPREME COURT OF THE UNITED STATES.

No. 42.

THE HEIRS OF GENERAL LAFAYETTE, PLAINTIFFS IN ERROR,

v.

JOSEPH KENTON AND AL.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Petition,	1	3
Answer of S. Locke, and call in warranty,	8	7
of Thomas Murphy, and call in warranty,	10	9
and call in warranty of John Aldige,	11	9
Act of sale and conveyance, annexed to call in warranty of John Aldige,	12	10
Answer of Caroline E. Long, f. w. c.,	16	13
Acts of sale annexed to the answer of Caroline E. Long, f. w. c.,	17	14
Answer of Charles De Blanc,	23	18
Act of sale, Joseph Kenton to Charles De Blanc, annexed to the answer of De Blanc,	25	19
Separate answer of Bernard Duffy,	30	23
Act of sale, annexed to the answer of Bernard Duffy,	31	23
Answer of C. R. Stumpf,	35	26
of Joseph Kenton and others,	37	27
Exception to C. R. Stumpf's call in warranty,	46	34
to Charles De Blanc's do.	47	34
to Thomas Murphy's do.	48	34
to John Aldige's do.	49	35
to Samuel Locke's do.	50	35
to Mary Walker's do.	51	36
Supplemental petition of plaintiffs,	52	36
Answer of A. W. Scates,	54	38
Citation, and Marshal's return,	56	39
Do. do.	58	40
Do. do.	60	41
Judgment by default, against Thomas Finn, Timothy Quinn, and John Creiser,	62	42
Order of continuance,	62	42
Do. do.	63	42
Motion of defendants, and order requiring George Eustis and J. Hagan to produce certain papers, documents, &c.,	64	42
Agreement filed, May 9, 1853,	66	44
Entry on the minutes—questions as to value of improvements, &c., waived, and cause opened for trial,	67	44
Entry on the minutes—order, requiring Register of Land Office to bring into court a book of Confirmations, and one of French Concessions,	68	45
Order of continuance, &c.,	68	45
Memorandum of evidence offered on the trial,	69	45
Two orders of continuance, after cause had been proceeded with,	72	47
Bill of exceptions preparatory to a writ of error,	73	48

GIDEON, Printer.

	Original.	Print.
Sec. 4 of Act of Congress, 3 March, 1803 (Plaintiffs' No. 1),	73	48
2 do. do. 27 do. 1804 (do. do. 2),	74	48
8 do. do. 2 do. 1805 (do. do. 3),	75	49
12 do. do. 21 April, 1806 (do. do. 4),	75	49
Warrant, No. 11 (plaintiffs, No. 5),	76	49
Application of Duplantier, agent of Gen. Lafayette (plaintiffs' No. 6), to locate lands,	77	50
Certificate of location (plaintiffs' No. 7),	78	50
Plat of survey (plaintiffs' No. 8), and certificates attached,	79	51
Copy of patent, and certificate (plaintiffs' No. 9),	81	52
Admissions of counsel,	83	53
Map *B*, or B,	85	54
Testimony of R. Hagan,	86	56
Defendants' document, No. 1, Spanish concession to Guardiola,	87	56
Map, annexed to the above concession,	90	58
Defendants' No. 2, sale, Mme. Peyroux to Guardiola,	93	60
Defendants' No. 3, survey of Don Carlos Trudeau,	95	61
Map, annexed to the foregoing survey,	98	63
Document, No. 4 (defendants'), sale, Guardiola to Fleitas,	99	63
Defendants' No. 5, sale to Celestina Fleitas (3d April, 1832),	101	64
6, sale, heirs of Widow Fleitas to Joseph Kenton,	103	66
7, evidence in support of claim of Domingo Fleitas,	107	69
8, confirmation of the claim of Fleitas,	110	71
Bill of exceptions, marked "C,"	111	72
Defendants' No. 11, letter of Sir Josiah Coghill Coghill,	113	73
12, do. of Lafayette,	114	73
27, application of A. Duplantier, agent of Gen. Lafayette, to locate warrant No. 1,	117	75
28, entry of location of land, and withdrawal of same, &c.,	118	76
28, entry of location of land for Gen. Lafayette,	120	76
29, certificate of Register of Land Office,	122	79
30, notice of Gen. Lafayette's locations,	123	79
31, letter, J. Meigs to Saml. H. Harper,	124	80
32, do. do. do.	125	81
33, do. Saml. Harper to W. H. Crawford,	126	81
34, do. do. to Geo. Graham,	129	83
35, affidavit of Jas. M. Bradford, and certificate,	130	84
36, certificate, concerning opening of Common Street,	132	85
42, claim of Castillon, including map, &c.,	133	86
Bill of exceptions, "D,"	148	95
Withdrawal of Hagan as intervener in three suits in 4th Dist. Court,	149	96
Plaintiffs' No. 13 offered in rebuttal,	150	97
14 do. do.	153	99
Map referred to,	155	100
Document, No. 4,	156	101
6,	157	102
Decisions asked, as if instructing a jury,	162	106
Judgment rendered, and opinion of the Court referred to,	168	110
Motion for a new trial, submission and motion overruled,	170	111
Final judgment, as signed by Hon. J. A. Campbell,	171	112
Agreement, as to translations,	172	112
Petition for a writ of error, and an order granting it,	173	113
Bond for writ of error,	175	114
Agreement, as to sufficiency of bond, &c.,	177	115
Certificates of authentication of this transcript,	178	116
Writ of error, and citations annexed,	179	116

CIRCUIT COURT OF THE UNITED STATES.

FIFTH CIRCUIT AND EASTERN DISTRICT OF LOUISIANA.

Pleas and proceedings had in the case of the Heirs of Lafayette *v.* John Kenton et als.; No. 2109 of the Docket. At the April Term, 1853, of the said Court.

Be it remembered that, on the 18th of March, 1852, the plaintiffs, the heirs of Lafayette, by their attorneys, Messrs. Eustis and Taylor, filed in the Clerk's Office of the said Court a petition against Joseph Kenton et al., in words and figures as follows, to wit:—

Petition.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.

United States Circuit Court,
Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States in and for the Eastern District of Louisiana:

The petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poirre Bureaux de Pusey, and of the said Maurice Poirre Bureaux de Pusey, who joins and assists his said wife herein; of Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmond Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, and of the said Auguste de la Bonninier de Beaumont, who joins and assists his said wife herein: of Maria Pauline de Lasteyre du Saillant, wife of Charles Francois Marie de Remusat, and of the said Charles Francois Marie de Remusat, who joins and assists his said wife herein; of Francois Melanie de Lasteyre du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and of the said Claude Francois Philibert Tireny de Corcelle, who joins and assists his said wife herein; and of Adrienne Jules de Lasteyre du Saillant, all citizens of the Republic of France, residing at Paris; and of Anastasia Pauline Louisa Dumottier de Lafayette, widow of Just Charles Cesar Foy de la tour Maubourg, a citizen of the kingdom of Sardinia, residing at Turin; the heirs and legal representatives of the late Major-General Lafayette, deceased: Respectfully represents, That, by the fourth section of an act of Congress, entitled: "An act to revive and continue in force 'an act in addition to an act,

entitled: An act in addition to an act regulating the grants of land appropriated for military services and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" and for other purposes; approved, March 3, 1803: and of the several acts of Congress, amendatory and explanatory of the same, to wit: the 14th section of an act supplementary to an act entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of Tennessee," approved, March 27, 1804; the 8th section of an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisiana," approved, March 2, 1805; and the 12th section of an act, entitled "An act supplementary to an act, entitled 'an act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisiana,'" approved, April 21, 1806: the United States granted to the said Major-General Lafayette eleven thousand five hundred and twenty acres of land, for which land warrants were to be issued, to be located, surveyed, and patented "at his option;" and which he was especially authorized and empowered to locate and survey on any lands of the property of the United States in the territory of Orleans, and for which, on presenting the surveys of the said land to the proper office, the President of the United States was authorized to issue letters patent to the said Major-General Lafayette: That the said land-warrants were issued to the said Major-General Lafayette, and that, on the 26th of November, 1807, he, by his agent, Armand Duplantur, made application to the Register of the Land-Office for the eastern district of the territory of Orleans; and located one-third part of a warrant for fifteen hundred and twenty acres in the rear of the city of New Orleans, as follows: On the vacant land situated beyond the line of six hundred yards, then lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same: that a survey of the tract of land comprised in the said location was made, under the authority of the surveyor of the lands of the United States south of Tennessee, on or about the 22d day of March, 1825; and that, on the 4th of July, 1825, a patent was issued by the President of the United States for the said tract of land, located by the said Major-General Lafayette as aforesaid, and containing four hundred and three acres and eighty-eight hundredths, and bounded and described as follows, to wit: beginning at a point on Gravier's line six hundred yards from the former fortifications of the city of New Orleans; thence with the line six hundred yards from the said fortifications, crossing the Canal Carondelet to a point on the line of the lands claimed by C. Fremé; thence with the lands of the said Fremé north sixty degrees twelve minutes west eighty-eight chains and eighty-four links; thence south twenty-two degrees west to a point on Gravier's line, eighty-eight chains and eighty-four links from the place of beginning; thence south twenty-two degrees west to a point on Gravier's line, eighty-

eight chains and eighty-four links from the place of beginning; and thence with Gravier's line south seventy degrees twenty-four minutes east eighty-eight chains and eighty-four links, to the place of beginning: in which said patent it was declared that all the parts and parcels of the tract of land described as aforesaid, not legally claimed by any other person or persons whomsoever, were granted to the said Major-General Lafayette, and to his heirs, by the United States, to have and to hold the same with the appurtenances to him the said General Lafayette, and to his heirs and assigns forever: That the said tract of land was the property of the United States when it was located as aforesaid, on the said 26th of November, 1807, and that no part of the same was legally or rightfully claimed at any time subsequently thereto by any person or persons whatever; and that in the premises the said Major-General Lafayette became and was in law the true, absolute, and legal owner and possessor, in full and perfect ownership of every part and parcel of the said tract of land, bounded and described as aforesaid. Your Petitioners further represent, that the said Major-General Lafayette took actual possession of the said tract of land as owner; that, previous to his death, which took place in the year 1834, he sold an undivided interest in and to a portion thereof lying between the said front line of the said tract, beginning at a point on Gravier's line six hundred yards from the former fortifications of the city of New Orleans, and running thence with the line six hundred yards from the said fortifications, and crossing the Canal Carondelet to a point in the line of the lands claimed by C. Fremé as aforesaid, and a certain other line, beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running thence across the said tract to a point on Common Street, between Mero and Galvy Streets, which was held and possessed by John Hagan, who became the owner and possessor of the said undivided interest in said portion, and the said Major-General Lafayette during his lifetime, in a state of indivision, and that after the death of the said Major-General Lafayette, his legal heirs and representatives continued to hold and possess the said portion of the said tract of land in indivision with the said John Hagan, and all the remainder of the said tract of land bounded and described as aforesaid on the said patent, to wit: All that portion of the said tract of land lying between the said line, beginning at a point in Orleans Street, between Roman and Derbigny Streets, and running to a point of Common Street between Myro and Galvy Streets, and the back line of the said tract as described on said patent, and which coincides with a line beginning at a point on Orleans Street at or near the corner of Raudon or Reudon Street, and running to a point on Common Street, at or near the corner of Salcedo Street; and that your petitioners are now, in their said capacity of heirs and legal representatives of the said Major-General Lafayette, the legal owners and possessors of all the said tract of land, located, surveyed, and patented by, for and to the said Major-General Lafayette as aforesaid, lying and

being between the said line beginning at the point on Orleans Street between Roman and Derbigny Streets, and running across the said tract to the point on Common Street, between Mero and Galvy Streets as aforesaid, and the back line of said tract beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running thence to a point on Common Street at or near the corner of Salcedo Street.

And your petitioners further represent, that Joseph Kenton, a citizen of the State of Louisiana, and residing in the City of New Orleans, well knowing that he was without any right, title, or interest, in or to any part, parcel, or portion of the said land, has slandered your petitioners' title thereto, and pretended to be the owner of a certain portion of the said tract of land, comprised between two parallel lines, coinciding very nearly with Tonte and Rocheblave Streets, and extending across the said tract of land from Orleans Street to Common Street; that he has pretended to make sales of a number of lots lying in some of the squares comprised in the said portion pretended to be owned by him, and lying between the said Tonte and Rocheblave Streets, to different persons respectively, and that the following persons pretend to own different portions and lots comprised in the same, under and through titles derived from the said Joseph Kenton, to wit: Charles Deblanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Arnett Scales, Margaret Scales, Mary Walker, Gerd. H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector M'Neill, Christian R. Stumps, M M'Caitiff, and Patrick Lawler; all of whom are citizens of the State of Louisiana, and reside in the City of New Orleans, and who also well knew that the said Joseph Kenton was without any right, title, or interest, in or to the said lots which he pretended to sell to them or those under whom they hold respectively. That by thus slandering your petitioners' title to the said land, and pretending to be the owner of the said land, the said Joseph Kenton has prevented and still continues to prevent your petitioners from selling the same, which is of the value of many thousand dollars, on advantageous terms, and has caused your petitioners damages in the sum of five thousand dollars, and that the said Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Arnett Scales, Margaret Scales, Mary Walker, Gerd. H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector M'Neill, Christian R. Stumps, M. M'Caitiff, and Patrick Lawler, have in like manner, by slandering petitioners' title and pretending to be the owners of the said lots respectively, which the said Kenton pretended to sell to them, caused your petitioners damage in the further sum of five thousand dollars.

Wherefore your petitioners pray that the said Joseph Kenton and Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Arnett Scales, Margaret Scales, Mary Walker, Gerd. H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector M'Neill, Christian R. Stumps, M. M'Caitiff, and Patrick Lawler, may be cited before this honorable court, that they may be ordered to produce their title to the said portion of the said tract of land, if any they have, that after legal proceedings had, your petitioners may be adjudged to be the legal owners and possessors of the said tract of land, and of the said portion thereof, that they the said Joseph Kenton and Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Arnett Scales, Margaret Scales, Mary Walker, Gerd. H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector M'Niell, Christian R. Stumpf, M. M'Caitiff, and Patrick Lawler, may be ordered and enjoined to desist from asserting any claim to, or pretending to be the owner of the said portion of land, or any portion thereof; and that the said Joseph Kenton may be condemned to pay to your petitioners the said sum of five thousand dollars damages; and the said Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Arnett Scales, Margaret Scales, Mary Walker, Gerd. H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector M'Neill, Christian R. Stumpf, M. M'Caitiff, and Patrick Lawler, may be condemned to pay four thousand dollars damages; and that all the said defendants may be condemned to pay the costs of suit. Your petitioners further pray for all and general relief they may be entitled to, or that the nature of their case may require.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

Answer of S. Locke, and Call in Warranty, filed 27th March, 1852.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et al.
} United States Circuit Court, Eastern District of Louisiana.

The answer of Samuel Locke, a party defendant in the above entitled suit, sets forth:—

That the defendant is owner of three lots of ground situated in the late First Municipality of the City of New Orleans, on the square bounded by Custom House, Bienville, Tonte, and Rocheblave Streets, and designated by the numbers seventeen, eighteen, and twenty, on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited in the office of the late A. C. Ainsworth, Notary Public. Lots number 17 and 18 measure each twenty-four feet front on Bienville Street by one hundred feet in depth between parallel lines, and bounded in the rear by an alley ten feet wide in common to said lots and others; and lot number 20 measures twenty-two feet eight inches and four lines, front on Bienville Street, by one hundred feet in depth between parallel lines, which said lots the defendant acquired from Joseph Kenton, also a defendant in the above entitled suit, by act passed before Albert Childe Ainsworth, Notary Public, the 14th of May, 1850, for and in consideration of the sum of four hundred and forty-five dollars.

Defendant further denies all and every the allegations in the plaintiffs' petition contained, which in any way affect the defendant's title to the property above set forth, and all damages alleged to be suffered by plaintiffs. And further, the defendant alleges, that he has suffered damage by the setting up of the claims of plaintiffs to the ownership of defendant's property as above set forth, and by the institution of this suit, to the amount of one thousand dollars. And further defendant prays leave of the Court to call in warranty his vendor Joseph Kenton, a resident of New Orleans, and a co-defendant in the above entitled suit, and that he may be cited and called upon to defend the defendant in his title to said lots as in law he is bound to do.

Therefore the defendant prays the judgment of the Court that he be hence dismissed at plaintiffs' cost; and further, that judgment be rendered in favor of the defendant and against the plaintiff, for the sum of one thousand dollars, as his damages suffered by the claims set up by the plaintiffs in this suit; and further, that if judgment be rendered in favor of the plaintiffs and against the defendant, then that the same judgment be rendered in favor of the defendant and against Joseph Kenton, the defendant's vendor called in warranty, with the further judgment that the defendant do recover of said Kenton the sum of four hundred and forty-five dollars, the purchase-price of said lots, together with legal interest thereon from the date of payment of the sum to the said Kenton, and one thousand dollars as damages suffered by defendant in the loss of all title to said lots, and further defendant asks for all general and proper relief.

E. H. DURELL,
Of Counsel.

Answer of Thomas Murphy, and call in Warranty, Filed 30th March, 1852.

HEIRS OF LAFAYETTE
v.
J. KENTON et al.
} United States Circuit Court, Eastern District of Louisiana.

The answer of Thomas Murphy, a defendant in the above entitled suit, denies all and every of the allegations in the plaintiffs' petition contained, and further the defendant sets forth that he is the owner of a certain lot of ground purchased by him of Joseph Kenton, a co-defendant in the above entitled suit, by act passed before Albert Childs Ainsworth, late notary public, on the 14th day of May, 1850, for the sum of two hundred dollars, being a lot of ground situate in the late First Municipality of New Orleans, in the square bounded by Custom House, Bienville, Tonte, and Rocheblave Streets, and designated by the number 16 in a plan drawn by C. A. Hedin, Architect, under date of 13th of April, 1850, and deposited in the office of said notary, which lot measures twenty-five feet front on Bienville Street, by one hundred feet in depth between parallel lines, and is bounded in the rear by an alley ten feet wide in common to said lot and others. Defendant further sets forth, that he has in good faith, and as the true and lawful owner of said lot improved the same, and has built upon the same a dwelling-house and out-houses, at a cost of fifteen hundred dollars: Wherefore the defendant prays leave of the Court to call in warranty the said Joseph Kenton, a resident of New Orleans, and citizen of Louisiana, his vendor, and that he be cited to defend his, the said Thomas Murphy's title to the lot aforesaid, and further defendant prays the judgment of the Court that he be hence dismissed at plaintiffs' costs; but should judgment be rendered in favor of plaintiffs in this suit, the defendant prays that judgment be rendered in his favor, that plaintiffs pay him the sum of fifteen hundred dollars, the value of his improvements above set forth, and that he have judgment over against his vendor, the said Kenton, for the sum of two hundred dollars the purchase-price of said lot, and fifteen hundred dollars as his damages and all costs of suit. Defendant prays for all further general relief.

E. H. DURELL,
Of Counsel.

Answer and call in Warranty of John Aldige. Filed 30th March, 1852.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON & als.
} In the Circuit Court of the United States for the Fifth Judicial Circuit and Eastern District of Louisiana, in the City of New Orleans.

Answer of John Aldidge, residing in New Orleans, to the plaintiff's petition:

Saith:—That he denies all and singular the facts and allegations contained in the plaintiffs' petition; however, he admits only that he is the owner of two certain lots of ground, together with all the improvements thereon, situate in the First Municipality of New Orleans, in the square bounded by Custom House, Bienville, *Bienville*, Tonte, and Rocheblave Streets, and designated by the numbers Eleven and Twelve, on a plan drawn by E. A. Hedin, Architect, under the date of the 13th *of the* 13*th* of April, 1850, and deposited in the office A. C. Ainsworth, not. pub. in this city; that he has purchased said property from one Joseph Kenton, by act before said Ainsworth, and of which act an authentic copy is annexed to this answer as a part of it. That said Joseph Kenton has guaranteed the title of said property to your respondent, as it appears more fully by the said act, and that respondent has made for two thousand dollars improvements on the property, besides the price paid by him for the purchase of said warranty. Wherefore respondent prays that said Joseph Kenton, of New Orleans, be called in warranty in this case, that he be served with a copy of the original petition, and of this call in warranty, in order to answer *and answer* the same, and that after due course of law in case judgment be rendered against the respondent in favor of the Heirs of Lafayette, that a similar judgment be rendered in his favor against said Joseph Kenton, condemning him to return to this respondent the price paid by him for said property, and also said sum of three thousand dollars paid by this respondent for the improvements made on the property, and that the party cast pays the costs, and he prays for general relief, and as in duty bound, &c.

ROBERT PREAUX,
Of Counsel.

Act of Sale.—Joseph Kenton to Jean Aldige, Jr.—Annexed to and made part of the answer of John Aldige. Filed with said answer 30th March, 1852.

United States of America, State of Louisiana, City of New Orleans:

Before me, Albert Childs Ainsworth, Notary Public, in and for this City, and the Parish of Orleans, duly commissioned and sworn, and in presence of the witnesses hereinafter named and undersigned, personally appeared Joseph Kenton, of this city, who declared that he had caused to be exposed for sale at public auction, on the eleventh day of May, 1850, by J. A. Beard, licensed auctioneer of this city, at which sale, as will appear by reference to the process verbal of said auctioneer, annexed to an act of sale of even date herewith passed before me, Notary, from the present vendor to Thomas Finn, the property hereinafter described was adjudicated to Jean Aldige, Jr., of this city, he being the last and highest bidder

therefor, at the price and sum of two hundred and ninety dollars, payable one-third cash, and the balance on a credit of six and twelve months. Now in confirmation of said sale and adjudication at auction, and compliant with the terms and conditions thereof, the said Joseph Kenton declares that he does, By these presents, grant, bargain, sell, convey, transfer, set over and deliver, with a full guarantee against all mortgages, debts, loans, claims and incumbrances, whatsoever, unto said Jean Aldige, Jr., who being here present purchases and accepts the same for himself, his heirs and assigns, and acknowledges due delivery and possession thereof, the property described as follows, viz.:

Two certain lots of ground, together with all the improvements thereon, situate in the First Municipality of this city, in the square bounded by Custom House, Bienville, Tonte, and Rocheblave Streets, and designated by the numbers "eleven" and "twelve," on a plan drawn by C. A. Hedin, Architect, under date of the 13th April, 1850, and deposited in my office as plan number "seven," of Book of Plans.

Said lots, numbers "eleven" and "twelve," measure each twenty-five feet front on Custom House Street, by one hundred feet in depth between parallel lines, bounded by an alley in the rear ten feet wide, in common to said lots and others: said lot number twelve forms the corner of Custom House and Rocheblave Streets.

Said property was acquired by the present vendor from the heirs of the widow Fleitas, as per act passed before Theodore Seghers, a Notary Public in this city, on the 19th day of May, 1835. The said vendor exhibited unto me, Notary, and the undersigned witnesses, his state and city tax receipts on the property hereinbefore described for the year 1849.

By reference to a certificate from the Recorder of Mortgages in and for the city and parish, dated this day, and annexed to an act of even date herewith, from the present vendor to Thomas Finn, it will appear that on the records in his office there is no mortgage recorded against said property in the name of the present vendor. This sale is made by the parties for, and in consideration of the price and sum aforesaid, of two hundred and ninety dollars, in part payment and liquidation of which the purchaser has paid in cash unto the vendor, who hereby acknowledges receipt of the [same], and grants acquittance therefor, the sum of ninety-six dollars, sixty-six and two-thirds cents; and for the balance of said price say the sum of one hundred and ninety-three dollars, thirty-three and one-third cents, the purchaser has subscribed to the order of, and endorsed by himself his two certain promissory notes, both dated 11th day of May, 1850, and payable respectively at six and twelve months after date at the State Bank of Louisiana, in this city, for the sum of ninety-six dollars, sixty-six and two-third cents, each with interest after maturity at the rate of eight per cent. per annum.

Which said notes after having been paraphed *ne varietur* by me

Notary, in order to identify them with this act, even together with the cash payment, hand unto the vendor, who hereby acknowledges receipt of the same. And in order to secure the full and punctual payment of said notes at maturity, together with all interest and costs which may thereon accrue, the said purchaser declares that he does by these presents, especially mortgage, affect and hypothecate the property hereinbefore described unto the said Joseph Kenton, who accepts the same for himself, his heirs and assigns, and for all persons who may in future become intrusted as bearers or holders of said notes, and the said purchaser hereby promises and binds himself not to alienate, deteriorate, nor incumber said property to the prejudice of this mortgage.

The said purchaser hereby assumes and binds himself to pay all assessments for the Draining Company's charges.

To have and to hold the said property unto the said purchaser, his heirs and assigns, to their proper use and behoof forever. And the said vendor, for himself and his heirs, shall and will warrant and forever defend the said property against the legal claim or claims of all and every person or persons whomsoever, by these presents. And the said vendor hereby moreover subrogates said purchaser to all his rights and actions of warranty against his own and all previous vendors of said property, to exercise said rights and actions in the same manner as Joseph Kenton might have done.

And next, personally appeared, John Walker, of this city, Attorney in fact of Mrs. Mary Ann Bush, wife of Joseph Kenton, herein acting by virtue of an act of Procuration annexed to an act from Mr. Kenton to D. Emandell, passed before G. R. Stringer, late a Notary Public in this city, on the 13th day of November, 1847, who, after the undersigned notary had explained to him verbally the nature and purport of the foregoing act of sale from Joseph Kenton to the said Jean Aldige, Jr., declared that he is desirous of releasing in favor of the said Jean Aldige, Jr., the property hereinbefore conveyed, from the matrimonial, dotal, paraphernal and other rights, and from all claims, mortgages, privileges to which she may be entitled, whether by virtue of her marriage with said Joseph Kenton or otherwise. Whereupon, the undersigned Notary did explain verbally to the said John Walker, Attorney of Mrs. Kenton, out of the presence of her said husband, the nature and extent of her rights, which are here detailed, to wit: The wife has a legal mortgage on the property of her husband, in the following cases: *First*, For the restitution of her dowry, and for the reinvestment of the dotal property sold by her husband, and which she brought on marriage, reckoning from the celebration of the marriage. *Second*, For the restitution and reinvestment of the dotal property which came to her after the marriage, either by succession or donation, from the day the succession was opened or the donation perfected. *Third*, For the reimbursing the amount of her paraphernal property alienated by

her, and received by her husband, or otherwise disposed of for his individual interest. *Fourth*, To indemnify her for debts which she may have contracted with her husband. And *Fifth*, For the donations which may have been made to her by her husband on account of their marriage; and that by renouncing said rights on the property hereinbefore conveyed, he would deprive her and her heirs irrevocably of all recourse thereon. And the said John Walker, Attorney of Mrs. Kenton, did thereupon declare to the Notary that he fully understood the nature and extent of her said rights on the property of her said husband, and that he, nevertheless, did persist in his intention of renouncing the same in favor of the said Jean Aldige, Jr., on the property hereinbefore sold. And the said Joseph Kenton being now present, asserting and authorizing said Attorney in the execution of these presents, and consenting thereto, said John Walker, Attorney of Mrs. Kenton, did again declare that he did and does hereby make a formal renunciation and relinquishment of all her said rights and mortgages on the property hereinbefore sold in favor of the said Jean Aldige, Jr., binding said Mrs. Kenton and her heirs, at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed at my office in the city of New Orleans, in the presence of William Shannon and J. Wood Breedlove, competent witnesses, of lawful age, and domiciliated in said city, who hereunto sign their names, together with the parties and the said Notary, this fourteenth day of May, in the year of our Lord, one thousand eight hundred and fifty.

Original signed Joseph Kenton, Mary Ann Kenton, by her Attorney, John Walker Aldige, Jr., William Shannon, J. Wood Breedlove, A. C. Ainsworth, Not. Pub.

A true copy of the original act.

[L. S.] A. C. AINSWORTH,

New Orleans, May 28, 1850. Notary Public.

Answer of Caroline E. Long, f. w. c., filed March 31, 1852.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON & als.
} United States Circuit Court, Eastern District of Louisiana.

To the Honorable, the Circuit Court of the United States in and for the Eastern District of Louisiana:

The answer of Caroline E. Long, f. w. c., residing in the City of New Orleans, State of Louisiana, to the petition herein filed against her, respectfully shows: That your respondent denies all and singular the allegations in said petition contained, so far as they go to show any want or defect of title on her part, in and to the lots which

are fully described in the annexed copies of authentic acts of sale from Charles De Blanc and Eugene Rochereau to her, which said copies she prays may be considered as parts of her answer.

Your respondent further answers, that the said lots were acquired by her from Charles De Blanc and Eugene Rochereau, who, under all lawful guarantee against all troubles, liens, debts, etc., and that she has made improvements on the same to the value of sixteen hundred dollars ($1600).

Wherefore your respondent prays that the said Charles De Blanc and Eugene Rochereau be cited in warranty to defend her in the present action, and if judgment be rendered against her that she may also obtain judgment against the said Charles De Blanc and Eugene Rochereau, decreeing them to restore to her the price she paid them for the lots aforesaid, as per acts of sale, made parts of her answer, and also the value of the improvements by her made on the same; and she further prays for all general and equitable relief which the nature of the case admits and justice may require, and as in duty bound, &c.

WM. A. GORDON,
Attorney.

Act of Sale.—Eugene Rochereau to Caroline E. Long. Filed with, annexed to, and made part of the answer of Caroline E. Long. Filed 31st March, 1852.

United States of America—State of Louisiana—City of New Orleans:

Be it remembered that on the first day of the month of March, one thousand eight hundred and fifty-one, and in the seventy-fifth year of the Independence of the United States of America, before me, Phillippe Lacoste, a Notary Public in and for the City and Parrish of Orleans, duly commissioned and sworn, and in presence of the witnesses hereinafter named and undersigned, personally came and appeared, Mr. Eugene Rochereau, of this city, who does, by these presents, grant, bargain, sell, convey, transfer, abandon and set over under all lawful guarantees, and with substitution and subrogation to all his rights and actions of warranty against all preceding vendors and proprietors, unto Caroline E. Long, f. w. c., of this city, here present, accepting and purchasing for herself, her heirs and assigns, and acknowledging due delivery and possession thereof, a certain lot of ground, together with all the improvements thereon, situate in the first municipality of this city, in the square bounded by Canal, Custom House, Tonte and Rocheblave Streets, and designated by No. 12, on a plan drawn by C. A. Hedin, Architect, under date of the thirteenth of April, 1850, and deposited in the office of A. C. Ainsworth, Notary Public in this city, as plan number seven of Book

of Plans: Said lot forms the corner of Canal and Rocheblave Streets, and measures twenty-five feet front on Canal Street by one hundred feet in depth and front on Rocheblave Street, and is bounded in the rear by an alley ten feet wide, in common to said lot and others. Said lot was acquired by the present vendor from Joseph Kenton, as per act passed before A. C. Ainsworth, a Notary Public in this city, on the fourteenth day of May, 1850. To have and to hold the said lot of ground unto the said purchaser, her heirs and assigns, to their proper use and behoof forever. This sale is made and accepted for and in consideration of the price and sum of two hundred seventy-three dollars and sixty cents, which the said purchaser has paid cash in current money of the United States, in the presence of the undersigned notary and witnesses' to the vendor, who hereby acknowledges receipt of the same, and grants acquittance therefor.

The said purchaser hereby assumes and binds herself to pay all assessments for the Draining Company's charges. By reference to the annexed certificates of the Register of Conveyances and Recorder of Mortgages in this city, bearing even date herewith, it appears that the said vendor has not alienated the lot of ground presently sold, and that there is no mortgage standing in his name, and recorded against the same. The said vendor declares that he is not tutor nor curator of minors, interdicted persons nor absentees, and that he is not married.

The vendor binds himself to pay the State and city taxes for the year 1850, and to deliver the receipts to be hereto annexed. Done and passed in my office at the city of New Orleans, the day, month and year first before written, in presence of Messrs. Francis Meteyé and August Huard, witnesses thereto required, and residing in this city, who have signed with the parties and the notary, after the reading of the act. Signed—Eug. Rochereau, Caroline E. Long, F. Meteyé, August Huard, Phi. Lacoste, Not. Pub.

[Here follows a certificate in French, authenticating the foregoing as a true copy from the original act. Signed March 8, 1851.]

PHI. LACOSTE,
[L. S.] Notary Public.

Sale.—Charles De Blanc to Caroline E. Long. Filed, March 31, 1852, *with, and made part of, the answer of Caroline E. Long.*

United States of America—State of Louisiana—City of New Orleans.

Be it remembered, that this day, the 24th of the month of February, one thousand eight hundred and fifty-one, and the seventy-fifth year of the Independence of the United States of America, before me, Phillipp Lacoste, a Notary Public, in and for the City and Parish of New Orleans, duly commissioned and sworn, and in pre-

sence of the witnesses hereinafter named and undersigned, personally came and appeared, Mr. Charles De Blanc, residing in this City, who does by these presents grant, bargain, sell, convey, transfer, abandon, and set over, with a full guarantee against all troubles, liens, debts, mortgages, claims and incumbrances whatsoever, with substitution and subrogation to all his rights and actions of warranty against all preceding vendors and proprietors, unto Caroline E. Long, *f. w. c.*, of this city, here present, accepting and purchasing for herself, her heirs and assigns, and acknowledging due delivery and possession thereof, the property described as follows: viz.: five certain lots of ground, together with all the improvements thereon, situate in the First Municipality of this City, in the square bounded by Canal, Custom House, Tonte and Rocheblave Streets, and designated by the numbers seven, eight, nine, ten, and eleven, on a plan drawn by C. A. Hedin, Architect, under date of the thirteenth of April, 1850, and deposited in the office of A. C. Ainsworth, a Notary Public in this City, as plan number seven of Book of Plans. Lot number seven measures twenty-two feet, eight inches, four lines front on Canal Street, by one hundred feet in depth, between parallel lines; and lot number eight, nine, ten, and eleven, measure each twenty-five feet front on Canal Street, by one hundred feet in depth between parallel lines. Said five lots are contiguous, and are bounded in the rear by an alley ten feet wide, in common to said lots and others. Said lots were acquired by the present vendor from Mr. Joseph Kenton, as per Act passed before A. C. Ainsworth, a Notary Public in this City, on the fourteenth day of May, 1850. To have and to hold the said lots of ground unto the said purchaser, her heirs and assigns, to their proper use and behoof forever. This sale is made and accepted for and in consideration of the price and sum of eight hundred and fifty-nine dollars, in part payment whereof the purchaser has paid cash in current money of the United States, in the presence of the undersigned notary and witnesses, the sum of two hundred and nineteen dollars ($219), to the undersigned, who hereby acknowledges receipt of the same and grants acquittance therefor; and for the balance of said price, say the sum of six hundred and forty dollars, the purchaser has furnished two promissory notes for the sum of three hundred and twenty dollars each, subscribed by herself to her own order, and endorsed by her, payable respectively at one and two years from their date, at the Bank of Louisiana, in this City, and bearing interest at the rate of eight per cent. per annum, from maturity until paid; which said notes, dated this day, after having been signed *ne varietur*, by the undersigned notary, in order to identify them with this act, were handed unto the vendor, who hereby acknowledges receipt of the same. And to secure the full and punctual payment of said notes, at maturity, without renewal, together with the interest which may accrue upon the same, the property herein conveyed remains specially mortgaged and hypothecated in favor of said vendor, or of

all bearer or bearers of said notes, the said purchaser hereby promising not to alienate nor encumber the same to the prejudice of this mortgage. By reference to the annexed certificates of the Register of Conveyances and Recorder of Mortgages, in this City, of even date herewith, it appears that the said De Blanc has never alienated the premises presently sold, and that there are no other mortgages standing in his name, and recorded against the same, than the one by him granted by his act of purchase above-mentioned in favor of his vendor, to secure the payment of nine hundred and twenty-six dollars, sixty-six and two-thirds cents, and the eventual interest at the rate of eight per cent. per annum; said sum being the amount of two promisory notes for four hundred and sixty three dollars, thirty-three cents, and one-third each, one of which has been paid by the said De Blanc, who binds himself to pay the other when due, and then to have the present mortgaged erased, which obligation is accepted by the purchaser. The said purchaser hereby assumes and obligates herself to pay all assessments for the Draining Company's charges. It appears by the same certificate of the Recorder of Mortgages, that said premises are subject to a general mortgage in favor of Mrs. Coralie de Reggio, wife of said De Blanc, resulting from their marriage contract, passed before Hagues Lavergue, Notary, dated the twenty-fifth March, 1825, to which mortgage the said Mrs. De Blanc will renounce. And now, personally came and intervened in these presents, Mrs. Coralie de Reggio, the legitimate wife of said Charles de Blanc, who did declare unto me, Notary, that it is her wish and intention, to release in favor of the said purchaser, her heirs and assigns, the premises herein described, from the matrimonial, dotal, paraphernal, and other rights, and from any claims, mortgages or other privileges to which she is or may be entitled, whether by virtue of her marriage with her said husband or otherwise. Thereupon, I, the said Notary, did inform the said Mrs. De Blanc, apart and out of the presence and hearing of her said husband, and before receiving her signature, that she had by law a legal mortgage on the property of her said husband; first, for the restitution of her dowry, and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of the marriage; secondly, for the restitution and reinvestment of the dotal property, by her acquired since marriage, whether by succession or donation, from the day the succession was opened, or the donation projected; thirdly, for nuptial presents; fourthly, for debts by her contracted with her said husband; and fifthly, for the amount of her paraphernal property, alienated by her, and recorded by her said husband, or otherwise disposed of for the individual interest of her said husband. And the said Mrs. De Blanc did thereupon declare unto me, notary, that she was fully aware of, and acquainted with the nature and extent of the matrimonial, dotal, paraphernal and other rights and privileges, thus

secured to her by law, on the property of her said husband; and that availing herself of the rights secured to her by the second section of an act passed by the Legislature of this State, authorizing wives to make valid renunciation, &c., approved on the 27th day of March, eighteen hundred and thirty-five, she nevertheless did persist in her intention of renouncing not only all the rights, claims and privileges hereinbefore enumerated and described, but all others of any kind or nature whatever, to which she is or may be entitled by any laws now or heretofore in force in the State of Louisiana.

And the said husband, Mr. Charles De Blanc, being now present, aiding and authorizing his said wife in the execution of these presents, she, the said wife, did again declare that she did and doth hereby make a formal renunciation and relinquishment of all her said matrimonial, dotal, paraphernal and other rights, claims, and privileges in favor of the said purchaser, binding herself and her heirs at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed, in my office at the said city of New Orleans, in the presence of August Huard and Francis Meteyé, witnesses of lawful age and domiciliated in this city, who hereunto signed their names, together with the said parties and with the said notary, after the reading the act.

(Signed) Chas. De Blanc, Coralie De Blanc,
Caroline E. Long, Aug. Huard,
[L. S.] F. Meteyé, Phi. Lacoste, Not. Pub.

A true copy of the original.

[L. S.] PHI. LACOSTE,

New Orleans, Feb. 25, 1851. Notary Public.

Answer of Charles De Blanc. Filed with exhibit 31 *March*, 1852.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court, Eastern District of Louisiana.

To the Honorable, the Circuit Court of the United States, in and for the Eastern District of Louisiana:

The answer of Charles De Blanc, resident of the city of New Orleans, and citizen of Louisiana, to the petition of the heirs of Major-General Lafayette, whose names are stated in the petition to which this is an answer, respectfully shows: That on the eleventh day of May, 1850, your respondent bought from Joseph Kenton, a resident of New Orleans, State of Louisiana, certain lots of ground with the improvements thereon, situate in the rear of this city, for the sum of thirteen hundred and ninety dollars, as will more clearly appear by reference to the copy of notarial act of sale which your re-

spondent has hereto annexed, and which he prays may be considered as part of his answer.

That at the time of said sale, your respondent was under the belief that the lots aforesaid, bought as aforesaid, really belonged to the said Joseph Kenton, and your respondent, both on his own account and on behalf of the said Joseph Kenton, his vendor, deny all and singular the allegations contained in the petition of the said heirs of the said Major-General Lafayette, as far as they go to invalidate or impair the rights and titles of the said Joseph Kenton to the lots aforesaid, sold by him to your respondent as aforesaid, and your respondent says that he is the true and legal owner of said lots.

Your respondent further alleges that the said Joseph Kenton, his vendor, specially undertook to guarantee him against all claims, evictions, or disturbance whatsoever, and he therefore prays the honorable court that the said Joseph Kenton be duly cited in warranty to defend him in the present suit against the claims of petitioners.

And your respondent lastly avers that he has made improvements on the lots bought by him from the said Joseph Kenton, and which are claimed by petitioners, to the amount of two hundred dollars, the value of which he is by law entitled to recover.

Wherefore, your respondent prays that the said Joseph Kenton be cited to appear to defend your respondent in the present suit; and if the judgment of this honorable Court should decree the claims of the petitioners to be valid, and send them in possession of the lots by him bought as aforesaid, then and in such case he prays that there be judgment in his favor against the said Joseph Kenton, his vendor, for the sum of thirteen hundred and ninety dollars, which was the price he paid for the aforesaid lots: And also he prays for judgment against the said Joseph Kenton and the heirs of Major-General Lafayette for the sum of two hundred dollars, being the value of the improvements which he has made on the lots aforesaid. And your respondent prays for all general and equitable relief which the nature of the case requires and justice may admit, and as in duty bound, etc.

CHARLES DE BLANC, Jr.,
Attorney for Plaintiff.

Sale of Property.—Joseph Kenton to Charles De Blanc. Annexed to and made part of the answer of Charles De Blanc. Filed 31 *March*, 1852.

United States of America, State of Louisiana, City of New Orleans:

Before me, Albert Childe Ainsworth, a Notary Public in and for the City and the Parish of Orleans, duly commissioned and sworn, and in presence of the witnesses hereinafter named and undersigned, per-

sonally appeared Joseph Kenton, of this city, who declared that he had caused to be exposed for sale at public auction, on the eleventh day of May, 1850, by J. A. Beard, licensed auctioneer of this city, at which sale, as will appear by reference to the proces verbal of said auctioneer, annexed to an act of sale of even date herewith, passed before me, Notary, from the present vendor to Thomas Finn, the property hereinafter described and adjudicated to Charles De Blanc, also of this city, he being the last and highest bidder therefor, at the price and sum of thirteen hundred and ninety dollars, payable one-third cash and the balance on a credit of six and twelve months.

Now, in confirmation of said sale and adjudication at auction, and compliant with the terms and conditions thereof, the said Joseph Kenton declares that he does, by these presents, grant, bargain, sell, convey, transfer, set over and deliver, with a full guarantee against all mortgages, debts, liens, claims, and incumbrances whatsoever, unto said Charles De Blanc, who being here present, purchases and accepts the same for himself, his heirs and assigns, and acknowledges due delivery and possession thereof, the property described as follows, viz.: Nine certain lots of ground, together with all the improvements thereon, situate in the First Municipality of this city, in the square bounded by Canal, Custom House, Tonte and Rocheblave Streets, and designated by the numbers "Seven," "Eight," "Nine," "Ten," "Eleven," "Sixteen," "Seventeen," "Eighteen," and "Nineteen," on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited in my office as plan number "seven" of Book of Plans. Lots numbers seven, eight, nine, ten, and eleven, measure each twenty-five feet front on Canal Street, by one hundred feet in depth between parallel lines, and bounded in the rear by an alley ten feet wide, in common to said lots and others; and lots numbers sixteen, seventeen, eighteen and nineteen, measure each twenty-five feet front on Custom House Street, by one hundred feet in depth between parallel lines, and bounded in the rear by an alley ten feet wide, in common to said lots and others. Lot number sixteen forming the corner of Custom House and Rocheblave Streets. 2d. A certain lot of ground situate in the First Municipality of this city, in the square bounded by Custom House, Canal, D'Orgenois and Broad Streets, and designated by the number "eleven" on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited in my office as plan number "nine," of Book of Plans, and measures thirty feet front on Custom House Street by one hundred feet in depth between parallel lines, and forms the corner of Custom House and D'Orgenois Streets. Lots numbers "seven," "eight," "nine," "ten," "eleven," "sixteen," "seventeen," "eighteen," and "nineteen," were acquired by the present vendor from the heirs of widow Flietas, as per act passed before Theo. Seghers, a Notary Public in this city, on the 19th day

of May, 1835, and lot number eleven was acquired by the present vendor from S. W. Oakey and Mrs. Joseph La Barre, as per act passed before P. P. La Barre, a Notary Public in this city, on the 2d of November, 1844. The said Joseph Kenton exhibited unto me, notary, and the undersigned witnesses, his state and city tax receipts on the property hereinbefore described, for the year 1849. By reference to a certificate from the Recorder of Mortgages in and for this city and parish, dated this day, and annexed to an act of even date herewith from the present vendor to Thomas Finn, it will appear that on the records in his office, there is no mortgage recorded against said property in the name of the present vendor. This sale is made and accepted by the parties for and in consideration of the price and sum aforesaid, of thirteen hundred and ninety dollars; in part payment and liquidation of which the purchaser has paid in cash unto the vendor, who hereby acknowledges receipt of the same, and grants acquittance therefor, the sum of four hundred and sixty-three dollars thirty-three and one-third cents, and for the balance of said price, say the sum of nine hundred and twenty-six dollars sixty-six and two-thirds cents, the purchaser has subscribed to the order of and endorsed by himself, his two certain promissory notes, both dated 11th of May, 1850, and payable respectively at six and twelve months after date, at the State Bank of Louisiana, in this city, for the sum of four hundred and sixty-three dollars thirty-three and one-third cents each, with interest at the rate of eight per cent. per annum from maturity until paid. Which said notes after having been paraphed ne varietur by me, notary, in order to identify them with this act, were together with the cash payment, handed unto the vendor, who hereby acknowledges receipt of the same. And in order to secure the full and punctual payment of said notes at maturity, together with all interest and costs which may thereon accrue, the said purchaser declares that he does by these presents especially mortgage, affect and hypothecate the property hereinbefore described unto the said Joseph Kenton, who accepts the same for himself, his heirs and assigns, and for all persons who may in future become interested as bearers or holders of said notes, and the said purchaser hereby promises and binds himself not to alienate, deteriorate nor encumber said property to the prejudice of this mortgage.

The said purchaser hereby assumes and binds himself to pay all assessments for the Draining Company's charges. To have and to hold the said property unto the said purchaser, his heirs and assigns, to their proper use and behoof forever. And the said vendor, for himself and his heirs, shall and will warrant and forever defend the said property against the legal claim or claims of all and every person or persons whomsoever, by these presents; and the said vendor hereby moreover subrogates said purchaser to all his rights and actions of warranty against his own and all previous vendors of said property, to exercise said rights and actions (*of warranty*) in the same manner as Joseph Kenton might have done.

sonally appeared Joseph Kenton, of this city, who declared that he had caused to be exposed for sale at public auction, on the eleventh day of May, 1850, by J. A. Beard, licensed auctioneer of this city, at which sale, as will appear by reference to the proces verbal of said auctioneer, annexed to an act of sale of even date herewith, passed before me, Notary, from the present vendor to Thomas Finn, the property hereinafter described and adjudicated to Charles De Blanc, also of this city, he being the last and highest bidder therefor, at the price and sum of thirteen hundred and ninety dollars, payable one-third cash and the balance on a credit of six and twelve months.

Now, in confirmation of said sale and adjudication at auction, and compliant with the terms and conditions thereof, the said Joseph Kenton declares that he does, by these presents, grant, bargain, sell, convey, transfer, set over and deliver, with a full guarantee against all mortgages, debts, liens, claims, and incumbrances whatsoever, unto said Charles De Blanc, who being here present, purchases and accepts the same for himself, his heirs and assigns, and acknowledges due delivery and possession thereof, the property described as follows, viz.: Nine certain lots of ground, together with all the improvements thereon, situate in the First Municipality of this city, in the square bounded by Canal, Custom House, Tonte and Rocheblave Streets, and designated by the numbers "Seven," "Eight," "Nine," "Ten," "Eleven," "Sixteen," "Seventeen," "Eighteen," and "Nineteen," on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited in my office as plan number "seven" of Book of Plans. Lots numbers seven, eight, nine, ten, and eleven, measure each twenty-five feet front on Canal Street, by one hundred feet in depth between parallel lines, and bounded in the rear by an alley ten feet wide, in common to said lots and others; and lots numbers sixteen, seventeen, eighteen and nineteen, measure each twenty-five feet front on Custom House Street, by one hundred feet in depth between parallel lines, and bounded in the rear by an alley ten feet wide, in common to said lots and others. Lot number sixteen forming the corner of Custom House and Rocheblave Streets. 2d. A certain lot of ground situate in the First Municipality of this city, in the square bounded by Custom House, Canal, D'Orgenois and Broad Streets, and designated by the number "eleven" on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited in my office as plan number "nine," of Book of Plans, and measures thirty feet front on Custom House Street by one hundred feet in depth between parallel lines, and forms the corner of Custom House and D'Orgenois Streets. Lots numbers "seven," "eight," "nine," "ten," "eleven," "sixteen," "seventeen," "eighteen," and "nineteen," were acquired by the present vendor from the heirs of widow Flietas, as per act passed before Theo. Seghers, a Notary Public in this city, on the 19th day

of May, 1835, and lot number eleven was acquired by the present vendor from S. W. Oakey and Mrs. Joseph La Barre, as per act passed before P. P. La Barre, a Notary Public in this city, on the 2d of November, 1844. The said Joseph Kenton exhibited unto me, notary, and the undersigned witnesses, his state and city tax receipts on the property hereinbefore described, for the year 1849. By reference to a certificate from the Recorder of Mortgages in and for this city and parish, dated this day, and annexed to an act of even date herewith from the present vendor to Thomas Finn, it will appear that on the records in his office, there is no mortgage recorded against said property in the name of the present vendor. This sale is made and accepted by the parties for and in consideration of the price and sum aforesaid, of thirteen hundred and ninety dollars; in part payment and liquidation of which the purchaser has paid in cash unto the vendor, who hereby acknowledges receipt of the same, and grants acquittance therefor, the sum of four hundred and sixty-three dollars thirty-three and one-third cents, and for the balance of said price, say the sum of nine hundred and twenty-six dollars sixty-six and two-thirds cents, the purchaser has subscribed to the order of and endorsed by himself, his two certain promissory notes, both dated 11th of May, 1850, and payable respectively at six and twelve months after date, at the State Bank of Louisiana, in this city, for the sum of four hundred and sixty-three dollars thirty-three and one-third cents each, with interest at the rate of eight per cent. per annum from maturity until paid. Which said notes after having been paraphed ne varietur by me, notary, in order to identify them with this act, were together with the cash payment, handed unto the vendor, who hereby acknowledges receipt of the same. And in order to secure the full and punctual payment of said notes at maturity, together with all interest and costs which may thereon accrue, the said purchaser declares that he does by these presents especially mortgage, affect and hypothecate the property hereinbefore described unto the said Joseph Kenton, who accepts the same for himself, his heirs and assigns, and for all persons who may in future become interested as bearers or holders of said notes, and the said purchaser hereby promises and binds himself not to alienate, deteriorate nor encumber said property to the prejudice of this mortgage.

The said purchaser hereby assumes and binds himself to pay all assessments for the Draining Company's charges. To have and to hold the said property unto the said purchaser, his heirs and assigns, to their proper use and behoof forever. And the said vendor, for himself and his heirs, shall and will warrant and forever defend the said property against the legal claim or claims of all and every person or persons whomsoever, by these presents; and the said vendor hereby moreover subrogates said purchaser to all his rights and actions of warranty against his own and all previous vendors of said property, to exercise said rights and actions (*of warranty*) in the same manner as Joseph Kenton might have done.

And next, personally appeared John Walker, of this city, attorney in fact of Mrs. Mary Ann Bush, wife of said Joseph Kenton, herein acting by virtue of an act of procuration annexed to an act from said Mrs. Kenton to D. E. Mandell, passed before G. R. Stringer, late a notary public in this city, on the 13th of November, 1847; who, after the undersigned notary had explained to him verbally the nature and purport of the foregoing act of sale from Joseph Kenton, said husband, to the said Charles De Blanc, declared that he is desirous of releasing in favor of the said Charles De Blanc the property hereinbefore conveyed, from the matrimonial, dotal, paraphernal and other rights, and from all claims, mortgages and privileges to which Mrs. Kenton may be entitled, whether by virtue of the marriage with said Joseph Kenton or otherwise. Whereupon, the undersigned notary did explain verbally to the said John Walker, attorney of Mrs. Walker, out of the presence of her said husband, the nature and extent of her rights, which are here detailed, to wit: The wife has a legal mortgage on the property of her husband, in the following cases: First. For the restitution of her dowry and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of her marriage. Second. For the restitution and reinvestment of the dotal property which came to her after the marriage, either by succession or donation, from the day the succession was opened or the donation perfected. Third. For the reimbursing the amount of her paraphernal property, alienated by her and received by her husband, or otherwise disposed of for his individual interest. Fourth. To indemnify her for debts which she may have contracted with her husband. And Fifth. For the donations which may have been made to her by her husband on account of their marriage; and that by renouncing said rights in the property hereinbefore conveyed, he would deprive Mrs. Kenton and her heirs irrevocably of all recourse thereon. And the said John Walker, attorney of Mrs. Kenton, did thereupon declare to me, notary, that he fully understood the nature and extent of her said rights on the property of her said husband, and that he, nevertheless, did persist in his intention of renouncing the same in favor of the said Charles De Blanc, on the property hereinbefore sold. And the said Joseph Kenton being now present, assisting and authorizing said attorney in the execution of these presents, and consenting thereto, said John Walker, attorney of Mrs. Kenton, did again declare that he did and does hereby make a formal renunciation and relinquishment of all her said rights and mortgages in the property hereinbefore sold in favor of the said Charles De Blanc, binding Mrs. Kenton and her heirs, at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed at my office, in the city of New Orleans, in the presence of J. Wood Breedlove, and William Shannon, competent witnesses, of lawful age, and domiciliated in said city, who hereunto

sign their names, together with the parties, and me, notary, this fourteenth day of May, in the year of our Lord, one thousand eight hundred and fifty. Original signed: J. Kenton, Mary Ann Kenton, by John Walker, Attorney, Chas. De Blanc, J. Wood Breedlove, William Shannon, A. C. Ainsworth, Not. Pub.

A true copy of the original act.

[L. S.] A. C. AINSWORTH,

New Orleans, May 30th, 1850. Notary Public.

Separate Answer of Bernard Duffy. Filed with 1 *Exhibit, April* 3, 1852.

JOSEPH KENTON et als. *ads.* HEIRS OF LAFAYETTE. } In the Circuit Court of the United States, Eastern District of Louisiana.

Bernard Duffy, one of the defendants in this case, for separate answer to plaintiffs' petition says, that he denies all and singular the allegations therein contained, and prays hence to be dismissed with his costs. And for further answer respondent says, that he purchased the property claimed by plaintiffs, from one Thomas Murphy, by an act passed before Hilary Breton Cenas, a notary public in the city of New Orleans, on the 31st day of March, 1851. A duly certified copy of which act is hereunto annexed, and made a part of this answer.

Wherefore respondent prays, that the said Thomas Murphy may be cited in warranty, and be ordered to defend this suit; and in case of the loss of said property by eviction, then that he, the said Murphy, may be condemned to pay to your respondent the true value of the said property with all legal interests, costs and charges.

And your respondent, &c.

W. CHRISTY,
For Respondent.

Sale of property—Thomas Murphy to Bernard Duffy, made part of the answer of Bernard Duffy, and filed with it, 3d April, 1852.

State of Louisiana, City of New Orleans:

Be it known, that this day, before me, Hilary Breton Cenas, a notary public in and for the city and parish of New Orleans, State of Louisiana, duly commissioned and qualified, and in presence of the witnesses hereinafter named and undersigned: Personally came and appeared Thomas Murphy, of this city, who declared that, for the consideration hereinafter expressed, he does, by these presents, grant, bargain, sell, convey, transfer, assign, and set over, with all legal warranties, unto Bernard Duffy, also of this city, here present, accepting and purchasing for himself, his heirs, and assigns, and

acknowledging delivery and due possession thereof all and singular the following described property, to wit:—

First. A certain lot of ground, together with all the improvements thereon, rights, privileges, customs, ways, servitudes, and appurtenances thereunto belonging or in anywise appertaining, situate in the Municipality Number One, of this city, in the square bounded by Salomon, David, Toulouse, and St. Peter Streets, and designated by the number "Twelve" on a plan drawn by C. A. Hedin, Architect, under date of the 13th of April, 1850, and deposited as plan number Eight in the Book of Plans of A. C. Ainsworth, a notary public in this city: Said lot measures thirty feet front on David Street, by one hundred and fifty feet in depth between parallel lines.

Second. And another certain lot of ground, together with the improvements thereon, rights, privileges, customs, ways, and appurtenances thereunto belonging or in anywise appertaining, situate in the same municipality, in the square bounded by Canal, Custom House, Tonte, and Rocheblave Streets, and designated by the number "Twenty-Three" on a plan drawn by the said Hedin on the 13th day of May, 1850, and deposited as plan number Seven on the Book of Plans of the said Ainsworth, Notary. Said lot measures twenty-five feet front on Custom House Street, by one hundred feet in depth between parallel lines, bounded in the rear by an alley ten feet wide, common to said lot and others.

Which said lots of ground were acquired by the said vendor by purchase from Joseph Kenton, by an act passed before the said Ainsworth, Notary, on the fourteenth day of May, eighteen hundred and fifty.

By reference to the annexed certificate of the Register of Conveyances and Recorder of Mortgages in and for the parish, dated this day, it will appear that the said property has never been alienated by the present vendor, and also that it is free from all incumbrance, with the exception of the mortgage granted by the said vendor by a clause in his said act of purchase, to secure the payment of two certain promissory notes, one of which has been duly paid and the other assumed by the present purchaser as hereinafter appears.

To have and to hold the said described property unto the said purchaser, his heirs and assigns forever; and the said vendor doth hereby, for himself, and his heirs, the said described property herein conveyed to the said purchaser, his heirs and assigns, shall and will warrant and forever defend against all legal claims and demands whatsoever. And the said vendor doth hereby moreover transfer unto the said purchaser all and singular the rights and actions of warranty, to which he is or may be entitled, against any and all of the former owners of the property herein conveyed; hereby subrogating the said purchaser in and to the said rights and actions to be by him enjoyed and exercised in the same manner as they might have been by the said vendor himself.

This sale is made and accepted for and in consideration of the price and sum of four hundred dollars ($400) in part payment and deduction of which the said purchaser has paid the sum of three hundred and nine dollars and eighty-four cents in ready current money, the receipt whereof is hereby acknowledged and acquittance in full therefor granted by the said vendor, and in payment of the balance of said price, the said purchaser has assumed and accordingly hereby binds himself and assumes to pay, in the place and stead of the said vendor and to his acquittance, a certain promissory note for the sum of ninety dollars and sixteen cents, drawn by the said vendor to the order of and endorsed by himself, bearing date the eleventh day of May, 1850, and made payable twelve months after date with interest from maturity, at the rate of eight per cent. per annum until paid. The said note was given in part payment for the above described property, and is secured by the special mortgage which the said vendor granted by a clause in his said act of purchase. Which mortgage is hereby assumed by the present purchase to the amount of the said note.

And now personally came and intervened in these presents, Mrs. Mary Kinshlo, of lawful age, and wife of the said Thomas Murphy, who did declare unto me, Notary, that it is her wish and intention to release, in favor of the said purchaser, the property herein described, from the matrimonial, dotal, paraphernal, and other rights, and from any claims, mortgages, or privileges to which she is or may be entitled, whether by virtue of her marriage with her said husband or otherwise.

Whereupon I, the said Notary, did inform the said wife verbally, apart, and out of the presence and hearing of her said husband, and before receiving her signature, that she had, by law, a legal mortgage on the property of her said husband: First, for the restitution of her dowry and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of the marriage. Secondly, for the restitution and reinvestment of the dotal property by her acquired since marriage, whether by succession or donation, from the day the succession was opened or the donation perfected. Thirdly, for nuptial presents. Fourthly, for debts by her contracted with her said husband; and, fifthly, for the amount of her paraphernal property alienated by her and recovered by her said husband, or otherwise disposed of for the individual interest of her said husband.

And the said wife did thereupon declare unto me, Notary, that she was fully aware of and acquainted with the nature and extent of the matrimonial, dotal, paraphernal, and other rights and privileges thus secured to her by law, on the property of her said husband, and that, availing herself of the rights secured to her by the second section of an act passed by the legislature of this State, authorizing wives to make valid renunciations, &c., approved on the twenty-

seventh day of March, eighteen hundred and thirty-five, she nevertheless did persist in her intention of renouncing not only all the rights, claims, and privileges hereinbefore enumerated and described, but all others of any kind or nature whatever, to which she is or may be entitled by any laws, now or heretofore in force, in the State of Louisiana.

And the said husband, being now present, aiding and authorizing his said wife in the execution of these presents: She, the said wife, did again declare, that she did and doth hereby make a formal renunciation and relinquishment of all her said matrimonial, dotal, paraphernal, and other rights, claims, and privileges in favor of the said purchaser, binding herself and her heirs at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed in my office at the said city of New Orleans, in the presence of August Commandeur, Charles F. Barry, witnesses of lawful age, and domiciliated in this city, who hereunto sign their names, together with the said parties, and me, the said Notary, on this thirty-first day of March, in the year of our Lord one thousand eight hundred and fifty-one (1851).

Original signed { Thomas Murphy, B. Duffy, Mary Murphy, A. Commandeur, Charles F. Barry, H. B. Cenas, Not. Pub.

I, Register of Conveyances, certify that the foregoing act has been this day recorded, in my office, in book number 53, fol. 496.

F. B. VINOT,
Deputy Recorder.

New Orleans, April 2, 1851.

I certify the foregoing to be a true copy of the original on file and of record in my office: In faith whereof, I grant these presents under my signature, and the impress of my seal of office, at New Orleans, this sixteenth day of July, in the year of our Lord one thousand eight hundred and fifty-one (1851).

[L. S.] H. B. CENAS,
Notary Public.

Answer of C. R. Stumpf. Filed April 5th, A. D. 1852.

HEIRS OF LAFAYETTE,
v.
JOSEPH KENTON et als.

To the Honorable, the Circuit Court of the United States, in and for the Eastern District of Louisiana:

C. R. Stumpf, one of the defendants herein, now comes, and for answer denies all and singular the allegations in plaintiffs' petition contained. And for further answer says, that he acquired by purchase at public auction, from Joseph Kenton, eight certain lots of ground, with all the improvements thereon, situated in Municipality No. One, in the square bounded by Solomon, David, Toulouse, and St. Peter Streets, and designated by the numbers 19, 20, 21, 22, 23, 24,

25, and 26, on a plan drawn by C. A. Hedin, under date of the 13th April. Lots No. 19, 20, 21, 22 and 23, measure each thirty feet front on Toulouse Street, by one hundred and five feet six inches in depth; lot No. 23 forming the corner of Toulouse and Solomon Streets. Lots Nos. 24 and 26 measure each thirty feet four inches front on Solomon Street, by one hundred and fifty feet in depth; and lot No. 25 measures thirty feet front on Solomon Street, by one hundred and fifty feet in depth, as the whole will more fully appear by reference to the act of sale, passed before A. C. Ainsworth, Notary Public, on the 14th May, 1850. Now respondent avers that plaintiffs never had any right, title or claim to the afore-described property, nor were they or their ancestors ever in possession of the same. Respondent further avers that even if plaintiffs have title to the same they cannot recover without refunding the purchase price; say one hundred and fifty-two dollars, together with one hundred dollars for taxes, drainage, expenses of sale, &c., &c., incurred, and which said taxes, drainage, &c., &c., were paid by respondent for and on account of said property.

Respondent also avers that if plaintiff ever had title to the property, the same is now barred by prescription which he pleads.

The premises considered, he prays that Joseph Kenton, his vendor, be cited in warranty, to defend this suit, and that plaintiffs' claim be rejected with costs. But should plaintiffs' title be recognized, then he claims, in reconvention, two hundred and fifty-two dollars, as aforesaid; and should judgment be rendered against respondent, he prays for judgment against his vendor for the purchase price aforesaid, together with all expenses and costs paid for and on account of said property, together with all such damages as petitioner may sustain.

Petitioner further prays for all such other general and equitable relief as the nature of the case may require. And as in duty bound, &c.

J. J. LUGENBUHL,
Attorney.

Answer of Joseph Kenton and others. Filed 9th April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The answer of Joseph Kenton, Nathan E. Bailey, Thomas Finn, Patrick Farley, Nicholas M. Benachi, Eugene Rochereau, William Penn, Hector McNiell, Robert Frazier, Patrick Lawler, to the petition of Mathilde Dumottier de Lafayette and others, heirs and representatives of the late General Lafayette, filed in this Honorable Court against them, respectfully shows: That the plaintiffs have no right or title to any part of the land claimed in their petition, because the Government of the United States donated to General Lafayette a portion of the wild and unappropriated lands of the United States, subject to improvement and cultivation, for the pur-

poses of agriculture, and never intended to donate to him lands within the limits of the corporation of the city of New Orleans. Your respondents allege that lands in a city are designated by squares and lots, and were expressly reserved from location under the grants to General Lafayette, by the 8th section of the act approved the 2d of March, 1805; and your respondents allege that it was expressly prohibited by said act, that General Lafayette should locate his lands in less quantities than one thousand acres, which quantity of vacant lands your respondents deny could be obtained in one body, at the place in which his agents attempted to locate said lands. By the 8th section of an act approved the 21st of April, 1806, General Lafayette was allowed to locate his lands in tracts, containing less than a thousand acres, but was expressly prohibited from making a survey or location containing less than five hundred acres.

Now, your respondents allege that the location made by his agents was bounded, as stated by him, by a perfect grant held by Jean Gravier, south, and by the commons of the city, east. Your respondents deny that his survey could cross the Canal Carondelet on the north, because the canal had been, before the change of government, appropriated to the purposes of navigation, and the lands north of it to individuals, by surveys made by Laveau Frudeau, the surveyor-general of the province, and approved by the Spanish government in Louisiana; and on the west there was a perfect grant in favor of Madame De Moleon, extending north and south from the forks of the Bayou St. John to Gravier's line.

Now, your respondents allege and charge that there was not five hundred acres of vacant land within those limits; and that the agents of General Lafayette could not locate his lands within them without a wilful violation of the act of Congress, by which the lands were donated to him; and your respondents allege that all the acts and doings in relation to the pretended location of his agents, and of those who, under their influence, betrayed the interest of the government of the United States, which they were bound to protect, are null and void, and produce no effect, and can give no right or title to any part of the lands claimed by General Lafayette, his agents and heirs, and their associates, aiders and abettors.

Your respondents allege that the city of New Orleans was incorporated by the Legislative Council of the Territory of Orleans, under authority of Congress, on the 17th day of February, 1805; that the agents of General Lafayette, did shortly afterwards, attempt to locate a thousand acre warrant east, west, north and south of the centre of the city, on its forts, commons, devantures, and other public places, but without any authority whatsoever, and the attempt was so manifestly unlawful that the location was expressly abandoned on the 9th of November, 1807, as appears by an entry of J. W. Gurley, Register in the land office of the United States, at New Orleans, to that effect.

Your respondents admit that the agent of General Lafayette made application on the 26th of November, 1807, to locate a third of a warrant for fifteen hundred and twenty acres, in the rear of the city, but denies that permission was given by the Register of the land office, as required by the act of Congress, as that location was then made, or that he had any power or authority to divide the warrant; and your respondents allege, that he took no further steps to make the location, until the 16th day of February, 1816, when he obtained permission from the Commissioners of the General Land Office to locate his claim in less quantities than five hundred acres, and Lafon, his agent, on the 25th of March, 1816, gave notice that he would survey the land in the rear of the six hundred yards beyond the fortifications of the city, appropriated to its commons, if it was not proved to the satisfaction of the Register of the land office, that the land was rightfully claimed by other persons. No farther steps were taken to locate the claim until March, 1825, when Samuel H. Harper, Register of the land office, certified that the land was not rightfully claimed by any one, and Lafon surveyed it in a less quantity than five hundred acres.

Now, your respondents allege that the permission given by the Commissioner of the General Land Office, to survey the land in a less quantity than five hundred acres, was in direct violation of an act of Congress, and null and void, and that the acts of Harper and Lafon, and all other officers, in attempting to perfect a title to the land in controversy, at the instance of General Lafayette, and the speculators associated with him, were contrary to law, and can produce no effect.

And your respondents especially charge that Lafon, as surveyor of the United States, had surveyed for individuals, and Harper, as Register, both acting under oath, had confirmed to said individuals every foot of the land which *which* they certified to be vacant, and surveyed as such for General Lafayette; and these confirmed claims were well known to the officers of the General Land Office at Washington, and other officers, in all the steps they took to perfect a title by patent to General Lafayette. So that your respondents charge, that all those steps were not only taken in violation of acts of Congress, but were fraudulent, and the name of General Lafayette has been constantly used in relation to his location and patent, to cover palpable and fraudulent violations of law. And your respondents deny that the said General Lafayette and his associates, and heirs, and representatives, ever had any right or title to any part of the land claimed by them, under the patent which is the basis of this suit.

Your respondents allege that they and those under whom they claim, have a complete and perfect title to the land for which they are sued, and have had the continuous and uninterrupted, peaceable, public and unequivocal possession of the same for upwards of fifty years before the institution of this suit.

Your respondents allege that before the commencement of the present century, Carlos Gardiola, being the proprietor of a small tract of land fronting on the road leading from the City of New Orleans to the Bayou St. John, but without sufficient depth for the use of his cattle and other purposes, in May, 1801, applied to the Spanish Government in Louisiana, for a grant of the lands in his rear, extending in depth across the Canal Carondelet to the line of Gravier's plantation.

And your respondents allege that on the 20th day of May, 1801, the Spanish Government in Louisiana made a complete and perfect grant of the land asked for, to Carlos Guardiola, having on the south side of the Canal Carondelet two arpents front on the canal, and extending between parallel side lines to Gravier's line in the rear, marked on a survey of said land, made at the time by Laveau Frudeau, Surveyor-General of the province of Louisiana, by letters E, F, G, H, and your respondents allege that the whole grant had been actually surveyed and located by the said Surveyor-General, before date of the grant, to wit, on the 9th of May, 1801, as appears by the original survey annexed to the grant, to wit, on 9th of May, 1801, as appears by the original survey annexed to the grant, marked A, B, C, D, E, F, G, H. And your respondents allege that the Government and Surveyor-General put the said Guardiola into the actual possession of said land on the 20th day of May, 1801, and in pursuance of the same he took and kept possession as stated in the grant and survey, to obtain pasture for his cattle, and wood for his use, and for those purposes and others, the said Guardiola and those who hold under him, have used and possessed the land from the 20th of May, 1801, until the present time. Your respondents allege that the grant of land to Carlos Guardiola, and to all those holding under him, was sacredly guaranteed by the third article of the Treaty of Cession of Louisiana, by France to the United States, dated the 30th of April, 1803. And your respondents allege that the 14th section of an Act of Congress, approved the 20th March, 1804, if it in any manner affected the grant under which they hold would be a violation of the treaty, and unconstitutional and void; because, 1st, the treaty of St. Ildefonso, dated 1st of October, 1800, referred to in said act, was a conditional treaty in which the King of Spain agreed to cede the province of Louisiana to the French Republic, only *upon* and six months *after* the full and entire execution of certain conditions and stipulations in the treaty in favor of the Duke of Parma; which conditions your respondents allege were not fulfilled until long after the date of the grant to Guardiola, and it was not until the 15th October, 1802, that the King of Spain gave orders that the cession should be made, and that the province should henceforth belong to the French Republic, on condition that the grants of land made by his Governors and Officers should be confirmed by France.

2d. Because the Treaty of St. Ildefonso was a secret treaty un-

known to the officers of the Spanish Government in Louisiana, and who had full power from their known Sovereign to make the grant to Guardiola.

3d. In June, 1801, after the date of the grant, Don Jean Manuel de Salcedo arrived in Louisiana as the Spanish Governor of the province, and his authority and power was recognized by the United States by appointing Daniel Clark their consul for the Spanish port of New Orleans.

4th. It was not until the 18th day of May, 1803, that the Marquis de Casacalvo and Salcedo, Spanish Governors of Louisiana, issued a proclamation, announcing the intention of their Sovereign to surrender the province to the French Republic.

5th. Neither the French Republic nor the United States, respectively, obtained the possession, nor any power, authority or control of the province, or its inhabitants, until the execution of the treaty of cession from Spain to France, on the 30th November, 1803, and from France to the United States, on the 20th December, 1803.

Your respondents further allege, that by a proviso in the 14th section of the said Act of Congress, it was provided, "That anything in this section contained, shall not be construed to make null and void any *bonâ fide* grant, made agreeably to the laws, usages and customs of the Spanish Government to an actual settler on the lands so granted for himself, and for his wife and family, or make null and void any *bonâ fide* act or proceeding done by an actual settler agreeably to the laws, usages and customs of the Spanish Government to obtain a grant for lands actually settled on by the person or persons claiming title thereto, if such settlement in either case was actually made prior to the twentieth day of December, one thousand eight hundred and three; and provided further, that such grant shall not secure to the grantee or his assigns, more than one mile square of land." Now your respondents allege that the grant to Carlos Guardiola, was a *bonâ fide* grant, that it was made agreeably to the laws, usages and customs of the Spanish Government, and to an actual settler on the lands granted, that it was made for less than a mile square, and was added to the small farm of the grantee fronting the Bayou Road, and was used by him for pasture and wood, for which it was granted, all before the 20th December, 1803. And your respondents allege that they had it decided by the Supreme Court of the State of Louisiana, in February, 1842, being more than ten years before the institution of this action, in a suit thoroughly contested with the Baroness Pontalba, that the grant to Guardiola was fully protected by the treaty of cession of France to the United States, and by the proviso of the 14th section of the Act of Congress approved the 26th of March, 1804. They further allege that, by the 4th section of an Act of Congress approved the 2d of March, 1805, Congress peremptorily required the said Guardiola, or any person claiming the grant under him, to file with the

board of commissioners established by said act, for adjusting titles and claims to land within the territory of Orleans, his grant, survey or plat, for adjustment, under penalty of forfeiture of the same.

And further, that Albert Gallatin, Secretary of the Treasury of the United States, by two letters, dated the 30th of March, and 2d of July, 1805, expressly required the Board to report the claim to Congress, in pursuance of the Act, as an incomplete title.

They show that Guardiola, by a public Act before Narcessus Bronten, a Notary Public of the territory, on the 5th of June, 1805, sold the whole farm, including the grant added to it, to Domingo Fleitas, a resident of the territory ; that Domingo Fleitas immediately filed his grant, survey and plat, with the Board of Commissioners for adjustment, that they reported that the grant was regularly made by the Intendant-General of the King of Spain, in Louisiana, on the 20th of May, 1801, but that the confirmation of it was not within the powers conferred upon them by the Act. Their report was laid before Congress, by Mr. Gallatin, the Secretary of the Treasury, on the 8th of January, 1812. Your respondents allege that Congress took cognizance of the report, and by an Act approved the 12th of April, 1814, expressly confirmed the whole claim of Domingo Fleitas, and thus gave to the claimants the highest, most complete, and perfect title to the land in controversy known to our laws.

Your respondents allege that all these facts were public and known to Harper, Lafon, and the agents of the speculators who had purchased an interest in the Lafayette claim, and that they afterwards falsely and fraudulently located their claim on the land of Domingo Fleitas, in violation of the Act of Congress donating it to Lafayette, knowing that the land was rightfully claimed by said Fleitas.

Your respondents allege that Domingo Fleitas, having departed this life, his children and heirs, on the 3d of April, 1832, by a public act before Theodore Seghers, a Notary Public of New Orleans, to avoid a sale or partition, renounced their share of the land in favor of their mother, the widow Fleitas, it having been their homestead for more than a quarter of a century. And the widow Fleitas having shortly afterwards departed this life, your respondents allege that her heirs, by an Act passed before said Notary, on the 19th of May, 1835, sold all that part of the grant, survey, and confirmation lying south of the Canal Carondelet, having two arpents front on said Canal, and running back between parallel lines to Common Street, to Joseph Kenton, and all your other respondents hold by regular and authentic titles under said Kenton.

Your respondents further allege, that they and those under whom they hold have had the continuous and uninterrupted peaceable public and unequivocal possession of the lands, for which this suit is brought, for upwards of fifty years, and have exercised, during that long period, every kind of possession and ownership, and that they and Joseph Benton have had the same enclosed by fences for more

than ten years before the institution of this suit, and in support of their title, they specially plead the prescription of ten, twenty, and thirty years, founded upon bona fide possession with a just title. And among other acts of possession, they allege that, in 1823, the heirs of Fleitas maintained a petitory action against the Corporation of New Orleans, holding under a claim, confirmed by Congress in favor of B. M'Carty, which was superior to that of General Lafayette, and rendered his location illegal, null, and void, and in which suit the validity of their grant was fully recognized by the Supreme Court of Louisiana.

That Joseph Kenton afterwards maintained a suit for slander of title against the Baroness Pontalba, under a claim confirmed by Congress, superior to that of General Lafayette, and which render his location illegal and impossible, and in which the validity of the grant to Guardiola was most strenuously attacked, but maintained by the Supreme Court of the State independently of the confirmation by Congress in a decision of unanswerable force, as it was marked by extraordinary ability. Nathan E. Bailey also successfully defended himself, under the grant of Guardiola, against a petitory action by and under the Heirs of Le Bretor D'Orgenois, who claimed, under a confirmation of Congress superior to the claim of General Lafayette, and which also rendered his location illegal, impossible, and in violation of the Act of Congress donating the land to him.

And these respondents further aver, and such the truth is, that they have made valuable improvements on the property claimed in this suit, the value of which they will establish, by proper evidence, on the trial thereof, and, that at all events, the plaintiffs cannot evict them without paying them for the said improvements made in good faith. Your respondents therefore allege that they hold a title to the property sued for perfect against the world, and that the title of the plaintiffs is false, fraudulent, and obtained in violation of a beneficent Act of Congress, and of the rightful claims to land of many of the oldest inhabitants of Louisiana, and is null and void.

Wherefore they pray judgment in their favor against the claim of the plaintiffs, and that they be forever quieted in their possession of the land claimed; also, in case of eviction, for the value of their improvements, and for costs, reserving their rights to claim damages from the plaintiffs, and those secretly associated with them, for the injury already suffered, and which may hereafter be caused to them, by the unfounded claim and suit of the plaintiffs, and they pray for all other and further relief the nature of the case may require. As in duty bound, &c.

FRANCIS PRESTON,
Attorney.

C. ROSELIUS,
Of Counsel.

board of commissioners established by said act, for adjusting titles and claims to land within the territory of Orleans, his grant, survey or plat, for adjustment, under penalty of forfeiture of the same.

And further, that Albert Gallatin, Secretary of the Treasury of the United States, by two letters, dated the 30th of March, and 2d of July, 1805, expressly required the Board to report the claim to Congress, in pursuance of the Act, as an incomplete title.

They show that Guardiola, by a public Act before Narcessus Bronten, a Notary Public of the territory, on the 5th of June, 1805, sold the whole farm, including the grant added to it, to Domingo Fleitas, a resident of the territory ; that Domingo Fleitas immediately filed his grant, survey and plat, with the Board of Commissioners for adjustment, that they reported that the grant was regularly made by the Intendant-General of the King of Spain, in Louisiana, on the 20th of May, 1801, but that the confirmation of it was not within the powers conferred upon them by the Act. Their report was laid before Congress, by Mr. Gallatin, the Secretary of the Treasury, on the 8th of January, 1812. Your respondents allege that Congress took cognizance of the report, and by an Act approved the 12th of April, 1814, expressly confirmed the whole claim of Domingo Fleitas, and thus gave to the claimants the highest, most complete, and perfect title to the land in controversy known to our laws.

Your respondents allege that all these facts were public and known to Harper, Lafon, and the agents of the speculators who had purchased an interest in the Lafayette claim, and that they afterwards falsely and fraudulently located their claim on the land of Domingo Fleitas, in violation of the Act of Congress donating it to Lafayette, knowing that the land was rightfully claimed by said Fleitas.

Your respondents allege that Domingo Fleitas, having departed this life, his children and heirs, on the 3d of April, 1832, by a public act before Theodore Seghers, a Notary Public of New Orleans, to avoid a sale or partition, renounced their share of the land in favor of their mother, the widow Fleitas, it having been their homestead for more than a quarter of a century. And the widow Fleitas having shortly afterwards departed this life, your respondents allege that her heirs, by an Act passed before said Notary, on the 19th of May, 1835, sold all that part of the grant, survey, and confirmation lying south of the Canal Carondelet, having two arpents front on said Canal, and running back between parallel lines to Common Street, to Joseph Kenton, and all your other respondents hold by regular and authentic titles under said Kenton.

Your respondents further allege, that they and those under whom they hold have had the continuous and uninterrupted peaceable public and unequivocal possession of the lands, for which this suit is brought, for upwards of fifty years, and have exercised, during that long period, every kind of possession and ownership, and that they and Joseph Benton have had the same enclosed by fences for more

than ten years before the institution of this suit, and in support of their title, they specially plead the prescription of ten, twenty, and thirty years, founded upon bona fide possession with a just title. And among other acts of possession, they allege that, in 1823, the heirs of Fleitas maintained a petitory action against the Corporation of New Orleans, holding under a claim, confirmed by Congress in favor of B. M'Carty, which was superior to that of General Lafayette, and rendered his location illegal, null, and void, and in which suit the validity of their grant was fully recognized by the Supreme Court of Louisiana.

That Joseph Kenton afterwards maintained a suit for slander of title against the Baroness Pontalba, under a claim confirmed by Congress, superior to that of General Lafayette, and which render his location illegal and impossible, and in which the validity of the grant to Guardiola was most strenuously attacked, but maintained by the Supreme Court of the State independently of the confirmation by Congress in a decision of unanswerable force, as it was marked by extraordinary ability. Nathan E. Bailey also successfully defended himself, under the grant of Guardiola, against a petitory action by and under the Heirs of Le Bretor D'Orgenois, who claimed, under a confirmation of Congress superior to the claim of General Lafayette, and which also rendered his location illegal, impossible, and in violation of the Act of Congress donating the land to him.

And these respondents further aver, and such the truth is, that they have made valuable improvements on the property claimed in this suit, the value of which they will establish, by proper evidence, on the trial thereof, and, that at all events, the plaintiffs cannot evict them without paying them for the said improvements made in good faith. Your respondents therefore allege that they hold a title to the property sued for perfect against the world, and that the title of the plaintiffs is false, fraudulent, and obtained in violation of a beneficent Act of Congress, and of the rightful claims to land of many of the oldest inhabitants of Louisiana, and is null and void.

Wherefore they pray judgment in their favor against the claim of the plaintiffs, and that they be forever quieted in their possession of the land claimed; also, in case of eviction, for the value of their improvements, and for costs, reserving their rights to claim damages from the plaintiffs, and those secretly associated with them, for the injury already suffered, and which may hereafter be caused to them, by the unfounded claim and suit of the plaintiffs, and they pray for all other and further relief the nature of the case may require. As in duty bound, &c.

FRANCIS PRESTON,
Attorney.

C. ROSELIUS,
Of Counsel.

Exception to C. R. Stumpf's Call in Warranty. Filed 9th April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The plea and exception of Joseph Kenton to the call in warranty filed against him by C. R. Stumpf, in the suit of the Heirs of General Lafayette against Joseph Kenton, respectfully shows:

That he excepts to the right of C. R. Stumpf to call him in warranty in this Honorable Court, on account of its want of jurisdiction between them as citizens of the same State. Your respondent, therefore, respectfully prays that the exception to the call in warranty may be sustained, and that said call in warranty may be dismissed with costs.

FRANCIS PRESTON,
Attorney.
C. ROSELIUS,
Of Counsel.

Exception to Charles De Blanc's Call in Warranty. Filed 9th of April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The plea and exception of Joseph Kenton to the call in warranty filed against him by Charles De Blanc, in the suit of the heirs of General Lafayette against Joseph Kenton, respectfully shows:

That he excepts to the right of said Charles De Blanc to call him in warranty in this Honorable Court, on account of its want of jurisdiction between them as citizens of the same State.

Your respondent respectfully prays that this exception to the call in warranty may be sustained, and that said call in warranty may be dismissed with costs.

FRANCIS PRESTON,
Attorney.
C. ROSELIUS,
Of Counsel.

Exception to Thomas Murphy's Call in Warranty. Filed 9th of April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The plea and exception of Joseph Kenton to the call in warranty filed against him by Thomas Murphy, in the suit of the heirs of General Lafayette against Joseph Kenton, respectfully shows:

That he excepts to the right of said Thomas Murphy to call him in warranty in this Honorable Court, on account of its want of jurisdiction between them as citizens of the same State.

Your respondent therefore respectfully prays that this exception to the call in warranty may be sustained, and that said call in warranty may be dismissed with costs.

FRANCIS PRESTON,
Attorney.
C. ROSELIUS,
Of Counsel.

Exception to Aldige's Call in Warranty. Filed 9th April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The plea and exception of Joseph Kenton to the call in warranty filed against him by John Aldige, in the suit of the heirs of General Lafayette against Joseph Kenton, respectfully shows:

That he excepts to the right of said John Aldige to call him in warranty in this Honorable Court, on account of its want of jurisdiction between them as citizens of the same State.

Your respondent, therefore, respectfully prays that this, his exception to the call in warranty, may be sustained, and that said call in warranty may be dismissed with costs.

FRANCIS PRESTON,
Attorney.
C. ROSELIUS,
Of Counsel.

Exception to Samuel Locke's Call in Warranty. Filed 9th April, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The plea and exception of Joseph Kenton to the call in warranty, filed against him by Samuel Locke, in the suit of the heirs of General Lafayette against Joseph Kenton, respectfully shows:

That he excepts to the right of said Samuel Locke to call him in warranty in this Honorable Court, on account of its want of jurisdiction between them as citizens of the same State.

Your respondent, therefore, respectfully prays that this, his exception to the call in warranty, may be sustained, and that said call in warranty may be dismissed with costs.

FRANCIS PRESTON,
Attorney.
C. ROSELIUS,
Of Counsel.

Answer of Mary Walker, f. w. c. Filed April 16th, 1852.

To the Honorable Circuit Court of the United States, in and for the Eastern District of Louisiana:

The answer of Mary Walker, f. w. c., to the petition of the heirs of Major-General Lafayette, respectfully shows: That respondent denies all and singular the allegations in said petition contained, inasmuch as they go to show any want of title in her to the land she now possesses, in the rear of this city.

And your respondent avers, that she has made improvements on the property claimed by the heirs of the said Major-General Lafayette, the value of which she will establish on the trial thereof, and the plaintiffs cannot evict her without making compensation for the said improvements.

Wherefore, your respondent prays judgment against the heirs of Major-General Lafayette, and that she be forever quieted in the possession of the land claimed by them, and, that in case of eviction, she may obtain the value of the improvements by her made on the said property, and for all general and equitable relief.

C. DE BLANC, Jr.,
Attorney.

Supplemental Petition, filed with leave of Court, 23d April, 1852.

HEIRS OF LAFAYETTE, *vs.* JOSEPH KENTON et als. } U. S. Circuit Court, Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States, in and for the Eastern District of Louisiana:

The supplemental petition of Charlotte Mathilde de Lafayette, wife of Maurice Bureau Pusey, and of the said Maurice Boirre Bureau de Pusy, who joins and assists his said wife herein, of Nathalie Réné Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, who joins and assists his said wife herein, of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmond Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouvinière de Beaumont, and of the said Auguste de la Bouviniere de Beaumont, who joins and assists his said wife herein, of Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois de Remusat, and of the said Charles Francois de Remusat, who joins and assists his said wife herein, of Francoise Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tierrey de Corcelle, who joins and assists his said wife herein, and of Adriene Jules de Lasteyrie du Saillant, all citizens of the Republic of France, re-

siding at Paris; and of Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Fay de la Tour Maubourg, a citizen of the Kingdom of Sardinia, residing in Turin, the heirs and legal representatives of the late Major-General Lafayette, deceased: respectfully represents that Annette Scates and Margaret Scates, two of the defendants named in their original petition, are minor children, the issue of the marriage of Alexander W. Scates, with , his wife, and born in lawful wedlock. That the said Alexander W. Scates, and his said wife, who are both citizens of the United States, residing in the city of New Orleans, are now both living. That the said minor children are now subject to the paternal power, and that the said Alexander W. Scates is, in law, vested with the administration of their property, and authorized to defend the rights which they claim in and to the property described in said original petition, or any part thereof, and that he ought now to be made a party to this suit to defend the rights claimed by the said Annette and Margaret in the said property, or a portion thereof, in his capacity of administrator, as aforesaid.

Your petitioners further represent that the said Alexander W. Scates, a citizen of the United States, as aforesaid, and residing in the city of New Orleans, also claims a portion of the said property described in their original petition in this case, filed as aforesaid, in his own right, and for his benefit and behoof, which he pretends to have derived from Timothy Quinn, one of the parties defendant, named in said original petition.

Wherefore, your petitioners pray that the said Alexander W. Scates may be made a party defendant in this case, and be cited before this Honorable (Court) in his capacity of administrator of the property of the said Annette and Margaret, his minor children, as aforesaid, and in his individual capacity, to answer the original petition filed herein, and that after legal proceedings had, judgment may be rendered against him, as prayed for in the said original petition, against the parties defendant therein named, and for general relief.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

Order endorsed on the foregoing:

Let the within contained supplemental petition be filed, and the persons therein named, be made parties to the suit.

THEO. H. McCALEB,
U. S. Judge.

Acceptance of service, endorsed on the petition:

I acknowledge legal service of the original petition, filed in this case, and of the within contained supplemental petition, and waive citation for the said Alexander W. Scates, acting as administrator of

the property of Annette Scates and Margaret Scates, his minor children, and also in his individual capacity.

EDW. H. DURELL,

Attorney for A. W. Scates, and for A. W. Scates as administrator of the property of Annette Scates and Margaret Scates, his minor children.

Answer of A. W. Scates. Filed 24th April, A. D. 1852.

HEIRS OF LAFAYETTE
vs.
JOSEPH KENTON et al.
} U. S. Circuit Court, Eastern District of Louisiana.

The answer of Alexander W. Scates for himself, and as administrator of the property of his minor children, Annette Scates and Margaret Scates, denies all and every the allegations in the petitioners' original and supplemental petitions contained, as far as the same affect the defendants in this answer named; except that the defendant, A. W. Scates, alleges that he is the owner of five lots of ground, together with all the improvements thereon, situate in Second District of New Orleans, in the square bounded by Custom House, Bienville, Tonte, and Rocheblave Streets, and designated by the numbers "Three," "Four," "Five," "Six," and "Seven," on a plan drawn by C. A. Hedin, under date of the 13th of April, 1850, and deposited in the office of the late A. C. Ainsworth, Notary Public. Said lots Nos. 3, 4, 5, and 6, measure each twenty-four feet front on Custom House Street, by one hundred feet in depth between parallel lines; bounded in the rear by an alley in common to said lots and others, and lot No. 7 measures twenty-two feet eight *eight* inches, and four lines front on Custom House Street, by one hundred feet in depth between parallel lines, and is bounded in the rear by the aforesaid alley. And further, the said A. W. Scates, as administrator of the property of his aforesaid minor children, alleges that his minor child, Annette Scates, is the owner of three certain lots of ground, together with all the improvements thereon, situate in the Second District of New Orleans, in the square bounded by Canal, Custom House, Tonte, and Rocheblave Streets, and designated by the numbers 28, 29, and 30, on a plan drawn by C. A. Hedin, under date of the 13th April, 1850, in the office of the late A. C. Ainsworth, Notary Public; said lots Nos. 28 and 30 measured each 31 feet front on Tonte Street, by one hundred and forty-three feet in depth between parallel lines, and lot No. 29 measures 31 feet four inches front on Tonte Street, by one hundred and forty-three feet in depth between parallel lines; said lot No. 28 is bounded on the side towards Custom House Street by an alley ten feet wide, in common to said lot and others, and lot number thirty, on the side nearest Canal Street, by an alley ten feet wide, and bounded in the rear by an alley eleven feet eight inches and four lines, in common to

said lots and others; and farther, that his minor child, Margaret Scates, is the owner of three certain lots of ground, with all the improvements thereon, situate in the Second District of New Orleans, in square bounded by Canal, Custom House, Tonte, and Rocheblave Streets, and designated by the numbers 13, 14, and 15, on a plan drawn by C. A. Hedin, under date of 15th April, 1850, and deposited in the office of the late A. C. Ainsworth, Notary Public; said lots Nos. 13 and 15, measure each 31 feet 4 inches front on Rocheblave Street, by 143 feet in depth between parallel lines; said lot No. 14 measures 31 feet four inches front on Rocheblave Street, by 143 feet in depth between parallel lines; said lot No. 13 is bounded on the side towards Canal Street by an alley ten feet wide, and lot number 15 is bounded on the side nearest Custom House Street by an alley ten feet wide, in common to said lots and others, and all bounded in the rear by an alley eleven feet eight inches, and four lines wide, in common to said lots and others.

Wherefore, the defendant prays that judgment be rendered in his favor, and in favor of his said minor children; confirming the title and ownership severally to the above described property, and that plaintiffs be hence dismissed with costs.

E. H. DURELL,
Of Counsel.

The President of the United States of America, to the Marshal of the Eastern District of Louisiana, greeting:

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON and others. } No. 2109.

You are hereby commanded to summon Thomas Finn, citizen of the State of Louisiana, to comply with the demand of C. M. D. de Lafayette et als., Heirs of Lafayette, aliens, contained in the petition, of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the Clerk of the Circuit Court of the United States, Fifth Judicial Circuit, and Eastern District of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held; and that you make due return hereof, on the first Monday of April, 1852.

[L. S.] Witness, the Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this twenty-third day of March, A. D. one thousand eight hundred and fifty-two, and of the Independence of the United States of America, the seventy-sixth year.

J. W. GURLEY,
Clerk.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court. No. 2109. Citation.

Marshal's Return:

Received this 23d day of March, 1852, and on the 25th day of March, 1852, served copies of the within citation, plaintiffs' petition, and documents annexed, on the within named Thomas Finn, in the manner following, to wit: By leaving same at his domicil (he being absent at the time) with Mrs. Jesse Finn, a free, white person, over the age of fourteen years, in the city of New Orleans; and returned, 25th March, 1852.

W. S. SCOTT,
United States Marshal.
By W. J. MILLER,
Deputy Marshal.

The President of the United States of America to the Marshal of the Eastern District of Louisiana, greeting:

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} No. 2109.

You are hereby commanded, to summon Timothy Quinn, citizen of the State of Louisiana, to comply with the demand of C. M. D. de Lafayette et als., Heirs of Lafayette, aliens, contained in the petition, of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the Clerk of the Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the Court is held; and that you make due return hereof on the first Monday of April, A. D. 1854.

Witness, the Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this eighteenth day of March, A. D. one thousand eight hundred and fifty-two, and of the Independence of the United States of America, the seventy-sixth year.

[L. S.]

J. W. GURLEY,
Clerk.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court. No. 2109. Citation.

Marshal's Return:

Received this 23d day of March, 1852, and on the 2d day of

April, 1852, served copies of the within citation, plaintiffs' petition, and documents annexed on the within named Timothy Quin, in the manner following, to wit: By handing the same to Mrs. Monogan, a white person, over the age of fourteen years, at his domicil in New Orleans, he, the said Timothy Quin, being absent at the time. Returned, April 2, 1852.

JULIEN BOUNY,
Deputy U. S. Marshal.

The President of the United States of America, to the Marshal of the Eastern District of Louisiana, greeting:

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.

You are hereby commanded, to summon John Creiser, citizen of the State of Louisiana, to comply with the demand of C. M. D. de Lafayette & als., Heirs of Lafayette, aliens, contained in the petition, of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the Clerk of the Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, in the City of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the Court is held; and that you make due return hereof, on the first Monday of April, 1852.

[L. S.] Witness, the Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States of America, at the City of New Orleans, this eighteenth day of March, A. D. one thousand eight hundred and fifty-two, and of the Independence of the United States of America, the seventy-sixth year.

J. W. GURLEY,
Clerk.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } United States Circuit Court. No. 2109.
Citation.

Marshal's return:

Received, this 23d day of March, 1852, and on the 9th day of April, 1852, served copies of the within citation, plaintiffs' petition, and documents annexed, on the within named John Creiser, in the manner following, to wit: By handing the same to his wife Julia Creiser, a free person over the age of fourteen years, at his domicil

in New Orleans, the said John Creiser being absent. Returned, April 9, 1852.

W. S. SCOTT,
United States Marshal.
By JULIEN BOUNY,
Deputy U. S. Marshal.

And afterwards, to wit: on the 10th day of May, A. D. 1852, a judgment, by default, was rendered, and duly recorded on the minutes, as follows:

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.

On motion of Miles Taylor, Attorney for plaintiffs, and on showing to the Court that the process of citation, in this cause, has been duly served upon the defendants Thomas Finn, Timothy Quin, and John Creiser, and that they have failed and neglected to answer, or plead to plaintiffs' petition, within the time allowed by law: It is ordered that judgment, by default, be entered against each of the said defendants.

Continuance.

Entered of record on the Minutes of the 12th of May, A. D. 1852.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.

By consent of parties, this cause is continued, and assigned for trial, for the second Monday in November next, at 10 o'clock, A. M.

And afterwards, to wit, on the 24th January, A. D. 1853, the following entry was made on the Minutes:

Heirs of Lafayette vs. Joseph Kenton & als. No. 2109.
Heirs of Lafayette vs. Mad. Pontabla & als. No. 2111.
Heirs of Lafayette vs. Heirs of D'Orgenois & als. No. 2116.
Heirs of Lafayette vs. Heirs of Griffin & als. No. 2143.

These causes having been assigned for this day, were called for trial, when, by consent of parties, it was ordered that they be continued until the 7th of February next.

Motion of Counsel for Defence. Filed February 12th, 1853.

HEIRS OF LAFAYETTE
vs.
KENTON & als. } United States Circuit Court, Eastern District of Louisiana.

On motion of Roselius, Janin, Ivy, and Preston, of Counsel for defence, and in showing to this Honorable Court that George Eustis,

Jr., agent and Counsel of plaintiffs herein, and John Hagan, Sen., have in their possession certain papers, documents, etc., which are essential and of importance to defendants in the trial this cause, to wit :

1st. An Agreement executed before the American Consul, at Paris, on June 20th, 1812, by which it appears Gen. Lafayette has sold to Sir John Coghill all the rights he had to 520 acres of land, part of the 11,520 acres granted to him by Congress, for the sum of 85,000 francs, and on various conditions ; among others, that if the land situated within two miles from New Orleans should not amount to 500 acres in extent, Sir John Coghill should take two undivided thirds of it, the remaining third remaining Gen. Lafayette's property.

2d. That difficulties had arisen in taking possession of the 520 acres in the vicinity of New Orleans.

3d. That Sir John Coghill being dead, Sir Josiah Coghill Coghill, having inherited his right to these lands, had agreed to take two-thirds of whatever quantity of land might be obtained under the grant, provided it was situated in the vicinity of New Orleans.

4th. That Gen. Lafayette and Sir Josiah Coghill Coghill, having agreed to be satisfied with any quantity of land which the President of the United States might think proper to grant them, in lieu of the original grant of 520 acres, the President granted them $114\frac{74}{100}$ acres in the vicinity of New Orleans, which were patented to Gen. Lafayette, on July 4th, 1825.

5th. That Gen. Lafayette having died May 20th, 1834, without having executed a formal title to those two-thirds of the $114\frac{74}{100}$ acres, they, Gen. Lafayette's Heirs, had executed it at Paris, on the 14th February, 1835, before the American Consul, and it was accepted by Sir Josiah Coghill Coghill, at Dublin, on the 8th of May, 1835.

6th. A translation of the last mentioned document annexed to an act of ratification which mentions all the above ; which act of ratification was executed at Paris, on the 25th June, 1842, before Fourchy and his colleagues, Notaries Public at Paris, &c.

8th. An Agreement under private signature executed at Paris, on the 24th February, 1834, between said Hagan and Lafayette, in which the same statements are made as in the above act of ratification, to wit : that if necessary the transfer to Sir Josiah Coghill Coghill, of their rights to two-thirds of those $114\frac{74}{100}$ acres of land, is again made.

10th. Act of Sale executed by Heirs of Sir Josiah Coghill Coghill to said Hagan, in compliance with his agreement with Coghill. This sale is dated May 9th, 1835, and was deposited by Hagan in the office of McCay, Notary Public of the city, on the 10th December, 1838 ; said act of sale is not now in said Notary's office, but has been withdrawn by Hagan.

It is ordered that the said George Eustis, Jr., and John Hagan, Sen., be ordered to produce the said papers, documents, &c., on Wednesday, the 16th February, 1853, on the trial of the above cause.

THEO. H. M'CALEB.

Marshal's return endorsed on the above.

Received February 12th, 1853, and on the 14th day of February, 1853, served copy of the within notice personally on John Hagan and George Eustis, Jr., Esq., in New Orleans. Returned February 14, 1853.

CHAS. A. LABRYAN,
Deputy Marshal.

Agreement. Filed May 9, 1853.

HEIRS OF LAFAYETTE
vs.
JOSEPH KENTON & als.

United States Circuit Court,
Eastern District of New Orleans.

It is agreed that this case shall be tried before the Judges, who shall find upon the facts as a Jury should do, and shall decide upon the law as they would have to do in instructing a jury, if the facts had been submitted to a jury.

That the Clerk shall make a statement of the evidence, in writing, offered and read in evidence.

And that after the trial, or after the motion for a new trial is made and overruled, a bill of Exceptions shall be signed by the Court, showing, 1st. How the case was tried. 2d. What written evidence was offered and received. 3d. What propositions the Court was called upon to decide by either plaintiffs or defendants, and what were the decisions on the same; and 4th. What were the grounds for a new trial, and what was the decision on it.

MILES TAYLOR and GEO. EUSTIS, Jr.,
Counsel for Plaintiffs.

C. ROSELIUS,
For Kenton.

And afterwards, to wit: on the 9th day of May, A. D. 1853, an entry was made on the minutes in the words and figures following, to wit:

HEIRS OF LAFAYETTE
vs.
JOS. KENTON & als.

No. 2109.

This cause was called for trial. Present, Messrs. Miles Taylor and Eustis, for Plaintiffs, and Messrs. Roselius and Ivy, for Defen-

dants. By agreement of Counsel, all the questions raised by the answer to the value of improvements are waived for the present, and reserved for future inquiry and determination. Whereupon the cause was opened and proceeded on until three o'clock, P. M., when both parties having closed their evidence, it was ordered that this cause be continued until to-morrow, at 10 o'clock, A. M.

And on the 10th day of May, A. D. 1853, the following order was entered of record on the minutes :

HEIRS OF LAFAYETTE
vs.
JOS. KENTON & als. } No. 2109.

On motion of Louis Janin, Esq., it is ordered that the Register of the Land Office in this city do forthwith bring into Court the original book of confirmations of the old Board of Commissioners, and also the original book of French concessions.

And afterwards, to wit, on the 10th day of May, A. D. 1853, the following order was duly recorded on the minutes:

HEIRS OF LAFAYETTE
vs.
JOS. KENTON & als. } No. 2109.

This cause was continued to be taken up and argued in connection with those of the same Plaintiffs vs. Mad. Pontalba & als., and vs. Heirs of D'Orgenois, and Heirs of Griffin & als. Nos. 2111, 2116, and 2143 of the Docket.

Memorandum of Evidence offered on trial, 9th May, 1853.

HEIRS OF LAFAYETTE
vs.
JOS. KENTON & als. } No. 2109.

Plaintiffs' offer.

1. Act of Congress, 3d March, 1803, page 236, Sec. 4.
2. " " 27th " 1804, " 305, " 14.
3. " " 2d " 1805, " 324, " 8.
4. " " 21 April, 1806, " 391, " 12.

} Statutes at large.

5. Copy of Warrant, by Secretary of War, for 1520 acres.
6. Application of Lafayette for location.
7. Copy of Register's Certificate as to location, &c.
8. Copy of Survey made by Turner, 22d March, 1825, and of the patent (one document).

9. Admission of Counsel as to correctness of Map, &c., to be drawn up by Counsel.

10. Testimony of R. Hagan, on page 7 of printed record from Supreme Court of United States (in defendants' No. 37).

11. Admission of Counsel that Plaintiffs are the heirs of Lafayette, and all live in France.

Defendants' offer.

1. Original Concession of Guardiola and Survey (on document).

2. Sale from William Peyroux to Guardiola, and Survey, Spanish.

3. Survey in favor of Guardiola.

4. Sale from Guardiola to Flietas.

5. Renunciation of Heirs of Flietas in favor of their mother after the death of Flietas.

6. Title from Heirs of Flietas to Kenton.

7. Evidence in support of claim of Flietas.

Note.—Plaintiffs object to the admissibility of the foregoing documents.

8. Confirmation of claims of Flietas.

Oral testimony of Bernard Marigny, John Bates, Joachim Courcelle, Mr. Heuno.

9. Agreement between Lafayette and Coghill ; letter from Vance to Hagan, &c. &c.

10. Joint declaration of Lafayette and Coghill, 2d Oct. 1823.

11. Letter of Coghill to Vincent and Notte, 24th Nov., 1824.

12. Letter from Lafayette to Derbigny, 24th Oct., 1829.

13. Agreement between Coghill and Hagan, 8th Oct., 1833.

14. Letter from Hagan to Lafayette, 22d Feb., 1834.

15. Articles of agreement between Lafayette and Hagan.

16. Heirs of Lafayette to Coghill. Ratification, 14th February, 1835.

17. Acceptance by Coghill of ratification, 14th Feb., 1835.

18. Conveyance from Coghill to Hagan, 9th May, 1835.

19. Power of Attorney from Coghill to Hagan, 22d Aug., 1835.

20. Power of Attorney from Mme. de Lasteyrie to G. W. Lafayette, 17th Sept., 1836.

21. Power of Attorney from Mme. de Latour Maubourg to G. W. Lafayette.

22. Mme. de La Teyre and Mme. de Latour Maubourg to Jno. Hagan.

23. Ratification by Mme. de Lasteyrie and Mme. de Latour Maubourg to Jno. Hagan.

24. Ratification by Heirs of Lafayette to Coghill, 2d July, 1842.

25. Copy of Hagan's petition in intervention in suit of Moore & als. vs. E. Blanc.

26. Record of case of Hagan and Lafayette vs. Canal Bank & als., from 4 District Court.
27. Application of Duplantur, Agent of Lafayette, to locate Warrant No. 1.
28. Entry of locations for Gen. Lafayette.
29. Certificate of Register on Lafayette's locations.
30. Notice of Lafayette's locations.
31. Letter of J. Meigs to Saml. H. Harper, 16th Feb., 1816.
32. Letter from Meigs to Harper, 25th May, 1816.
33. Letter from Harper to Crawford, 3d July, 1820.
34. Letter from Harper to Graham, 30th July, 1824.
35. Affidavit of James M. Bradford, &c.
36. Certificate concerning the opening of Common Street.
37. Record in case of Lafayette and Hagan vs. Blanc.
38. Kenton's State Tax Receipt for the year 1834.
39. Kenton's City Tax Receipt for the year 1834.
40. Kenton's Parish Tax Receipt for the year ending 10th April, 1835.
41. Kenton's 1st Municipality Tax Receipt for year 1839.
42. Claim of J. B. Castillon.

Plaintiffs' offer as rebutting evidence.

12. Withdrawal of Hagan as intervenor in three suits in 4th District Court, N. Orleans.
13. Counter letter to John Hagan.
14. Claim of Mayor, Aldermen, and inhabitants of City of New Orleans.

And on the 11th of May, A. D. 1853, the following entry was made on the minutes:

2109. Heirs of Lafayette vs. Jos. Kenton & als.
2111. Heirs of Lafayette vs. Mad. Pontalba & als.
2116. Heirs of Lafayette vs. Heirs of D'Orgenois.
2143. Heirs of Lafayette vs. Heirs of Griffin & als.

These causes, as continued from yesterday, were resumed. Messrs. Taylor and Eustis for Plaintiffs, and Messrs. Janin and Ivy for Defendants; and were proceeded with until three o'clock, P. M., when they were continued until to-morrow at ten o'clock, A. M.

And on the 12th day of May, A. D. 1853, the following entry was made on the minutes: (Causes submitted.)

2109. Heirs of Lafayette vs. Jos. Kenton & als.
2111. Heirs of Lafayette vs. Mad. Pontalba & als.
2116. Heirs of Lafayette vs. Heirs of D'Orgenois.
2143. Heirs of Lafayette vs. Heirs of Griffin.

These causes, as continued from yesterday, were resumed and proceeded with until 3 o'clock, P. M., when the argument on both sides having been concluded, they were submitted to the Court, and taken under advisement.

Bill of Exceptions preparatory to a Writ of Error.

HEIRS OF LAFAYETTE *vs.* JOSEPH KENTON et al. } United States Circuit Court, Eastern District of Louisiana.

Bill of Exceptions:

Be it remembered that this case was tried before the Judges who were to find upon the facts, as a jury should do, and decide upon the law, as they would have to do in instructing a jury if the facts had been submitted to a jury. And upon the trial, the plaintiffs offered and read in evidence the following acts of Congress, instruments in writing, plans, or plats of survey, and other written evidence, in the order mentioned in the statement of evidence, made out by the clerk during the trial.

1. *Act of Congress, 3d March, 1803, offered by Plaintiffs.*

Sec. 4. And be it further enacted, that the Secretary of War be and he is hereby authorized to issue land warrants to Major-General Lafayette, for eleven thousand five hundred twenty acres, which shall, at his option, be located, surveyed, and patented, in conformity with the provisions of an act entitled, "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen," or which may be received acre for acre in payment for any of the lands of the United States, north of the river Ohio, and above the mouth of Kentucky River.

2*d. Act of Congress, 27th March*, 1804.

Sec. 14. And be it further enacted, that Major-General Lafayette be, and he is hereby authorized and empowered, to locate and survey the lands allowed him by the fourth section of an act entitled "An act to revive and continue in force an act in addition to an act entitled An act in addition to an act, regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen, and for other purposes," on any lands, the property of the United States, in the territory of Orleans; and on presenting the surveys of said land to the Secretary of the Treasury, the President of the

United States is hereby authorized to issue letters patent to the said Major-General Lafayette, for the quantity of lands allowed by the said act.

Approved, March 27th, 1804.

Act of Congress, 2d March, 1805.

Sec. 8. And be it further enacted, that the location or locations of lands which Major-General Lafayette is by law authorized to make, on any lands the property of the United States, in the territory of Orleans, shall be made with the register or registers of the land offices established by this act, in the said territory; the surveys thereof shall be executed under the authority of the Surveyor of the lands of the United States, south of Tennessee; and a patent or patents therefor shall issue on presenting such surveys to the Secretary of the Treasury, together with a certificate of the proper register or registers, stating that the land is not rightfully claimed by any other person: Provided, that no location or survey made by virtue of this section, shall contain less than one thousand acres, nor include any improved lands or lots, salt spring or lead mine.

Act of Congress, 21st April, 1806. *Sec.* 12.

Sec. 12. And be it further enacted, that the location or locations of lands which may be made in the territory of Orleans, by Major-General Lafayette, by virtue of the ninth section of the act to which [this] act is a supplement, shall and may be received, though containing less than one thousand acres: *Provided*, that no such location or survey shall contain less than five hundred acres.

No. 5. Read in evidence 9th May, 1853, *part of the foregoing Bill of Exceptions. Warrant No.* 11, *for* 1520 *acres, in favor of Major-General Lafayette.*

Number 11.

Pursuant to the fourth section of an Act of Congress, regulating the grants of lands appropriated for military services and for other purposes, passed the 3d day of March, 1803.

Major-General Lafayette is entitled to one thousand five hundred and twenty acres of land, to be located or received in payment, according to the provisions made by law.

Given at the War Office of the United States, this 15th day of July, 1805.

Reg'd. (Signed) H. DEARBORN,

(Signed) H. ROGERS.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a document on file in this office. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Plaintiffs' No. 6, *read in evidence* 9*th May*, 1853. *Part of the foregoing Bill of Exceptions.* (*Application of A. Duplantier, Agent of General Lafayette, to locate certain lands*).

To the Register of the Land Office, for the Eastern District of the Territory of Orleans:

Armand Duplantier, agent of Major-General Lafayette, prays that one-third part of the warrant of fifteen hundred and twenty acres hereto annexed, and numbered 11, issued by the Secretary of War, in favor of said Lafayette, be located on the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the corporation of the said city, round the fortifications of the same.

(Signed) G. DERBIGNY,
Attorney for Armand Duplantier.

New Orleans, November 26th, 1807.

Land Office, New Orleans, 1st May, 1850.

I certify the foregoing to be a true copy of the original, on file in this office.

CHARLES FRITZ,
Register.

Plaintiffs' No. 7, *read in evidence* 9*th May*, 1853. *Part of Bill of Exceptions. Certificate of location of Major-General Lafayette.*

Notice.

Register's Office of the Eastern District of the State of Louisiana:

New Orleans, November the twenty-sixth, one thousand eight hundred and seven. Armand Duplantier, agent for Major-General Lafayette, has this day filed in this office, a warrant for fifteen hundred and twenty acres of land, dated July 15th, 1805, and No. 11, issued by the Secretary of War, in favor of said Lafayette, and located one-third part of the same in the following tract, viz.: "On the vacant lands situated beyond the line of the six hundred yards lately abandoned by Congress to the corporation of the said city, round the fortifications of the same."

(Signed) J. W. GURLEY,
Register.

A true copy from the record in my office,

(Signed) SAMUEL H. HARPER,
Register.

N. B.—The above land shall be surveyed within one month from this date, when a certificate will issue for the same, unless it shall be previously proved to the satisfaction of the Register of the Land Office, that the said land is rightfully claimed by another person or persons.

Land Office, New Orleans, 1st May, 1850.

I certify the foregoing to be a true copy of the original on file in this office.

CHARLES FRITZ,
Register.

[For Map, being part of Document No. 8, see original, page 9.]

Certificate of Surveyor, annexed to the foregoing Plat of Survey.

Pursuant to an order received from the surveyor of the public lands south of the State of Tennessee, I have surveyed, for General Lafayette, a tract of land situate in the parish of Orleans, beyond the line of six hundred yards abandoned by Congress to the corporation of the city of New Orleans, having such courses, distances, boundaries, and content as are represented in the annexed plat of survey.

(Signed) JOHN C. TURNER,
New Orleans, March 22, 1825. Principal Deputy Surveyor.

Certificate of the Commissioner of the General Land Office, endorsed on the foregoing.

General Land Office.

I certify that the within is a true copy from the records of this office.

In testimony whereof, I have hereunto signed my name, and caused the seal of this office to be affixed, at the city of Washington, the 28th day of December, 1826.

[L. S.] (Signed) GEO. GRAHAM,
Commissioner of the General Land Office.

Certificate of Samuel H. Harper, Register.

I, Samuel H. Harper, Register of the Land Office for the Eastern District of Louisiana, do hereby certify that the lands herein contained are vacant, with the exception of the part designated as private claims.

(Signed) SAMUEL H. HARPER,
New Orleans, 22d April, 1825. Register.

Copy of Patent—Annexed to the Plat of Survey made by Turner.

United States of America—To all to whom these presents shall come, greeting:

Know ye that General Lafayette, having deposited in the General Land Office a certificate of the Register of the Land Office at New Orleans, in Louisiana, whereby it appears that, in pursuance of the fourth section of the act of Congress, passed on the third day of March, one thousand eight hundred and three, entitled "An act to revive and continue in force an act in addition to an act, entitled 'An act in addition to an act, regulating the grants of lands appropriated for military services, and for the Society of the United Brothers for propagating the Gospel among the Heathen; and for other purposes,'" and of the several acts of Congress, amendatory and explanatory of the same, General Lafayette, on the twenty-sixth day of November, one thousand eight hundred and seven, entered with the Register of the Land Office, at New Orleans, a certain tract of land, containing five hundred and three acres and eighty-eight hundreths of an acre, adjoining the city of New Orleans, bounded and described as follows, to wit: Beginning at a point on Gravier's line six hundred yards from the fortifications of the City of New Orleans, thence with the line six hundred yards from the said fortifications, crossing the Canal Corondelet to a point on the line of the lands claimed by C. Tremé; thence with the lands of the said Tremé, north sixty degrees twelve minutes, west eighty-eight chains and eighty-four links; thence south twenty-two degrees, west to a point on Gravier's line eighty-eight chains and eighty-four links from the place of beginning, and thence with Gravier's line, south seventy degrees and twenty-five minutes, east eighty-eight chains and eighty-four links to the place of beginning, as surveyed under the authority of the surveyor of the lands of the United States, south of the State of Tennessee.

There is, therefore, granted, by the United States, unto the said General Lafayette, and to his heirs, all such parts or parcels of the tract of land above described, as are not legally claimed by any other person or persons whomsoever: To have and to hold the said parts or parcels of the tract above described, with the appurtenances, unto the said General Lafayette, and to his heirs and assigns forever.

In testimony whereof, I, John Quincy Adams, President of the United States of America, have caused these Letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the fourth day of July, in the year of our Lord one thousand eight hundred and

twenty-five and of the Independence of the United States of America the fiftieth.

By the President.

[L. S.] (Signed) JOHN QUINCY ADAMS.

(Signed) GEORGE GRAHAM,
Commissioner of the General Land Office.

Recorded in Vol. V. pages 80 and 81, of Donation Patents.

Consulate of the United States of America.
Paris, Kingdom of France.

I, Lorenzo Draper, Consul of the United States for Paris, &c., Agent of claims, do hereby certify that the within copy of an original copy from the Records of the General Land Office, at Washington, with the Surveyor's and Register's certificates and plat of survey, are true and faithful copies carefully collated and compared by me, with the said original copy deposited in this office by General Lafayette, on the twenty-fourth of February, 1834; and that the said copy is entitled to full faith and credit in judication and thereout.

In testimony whereof, I have hereunto set my hand and seal of office, at Paris, this twenty-fourth day of June, in the year of our Lord eighteen hundred and forty-two, and the 66th year of the Independence of said United States.

[L. S.] LORENZO DRAPER,
Consul U. S., &c.

Plaintiffs' Nos. 9 *and* 11. *Admissions of Counsel, made part of the foregoing Bill of Exceptions.*

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court, Eastern District of Louisiana.

Admissions:

It is admitted that the plaintiffs are the heirs and legal representatives of General Lafayette, that General Lafayette resided in France, and that his heirs, the plaintiffs, have always resided there.

It is admitted that Lafayette and Hagan were in possession of the portion of land, embraced in the patent to Lafayette, lying between the line represented on the plat accompanying the patent as it is claimed by the heirs of Griffon, and the front line of said plat in in the year 1839; and that they afterwards sold the same to different individuals. It is admitted that all the other defendants hold under Kenton, by title translative of property.

It is admitted that Sir Josiah Coghill was the heir of Sir John Cogwell, and had succeeded to all his rights.

It is admitted that Sir Josiah Coghill was the heir of Sir John Coghill, and had succeeded to all his rights.

It is admitted that the line E F on the plat made by A. G. Blanchard, marked B, and filed as a diagram, to apply the evidence

in the case, is the same with the line E F on the plat, making a part of the evidence filed with the claim of the mayor, aldermen, and inhabitants of New Orleans, and embraced in Document No. 14 of the plaintiffs' evidence, and that the line represented on the Plat of Survey, made by O. Devizon, 13th April, 1765, laid down by Pelir, and represented by the letters E P, and running east and west, is the same with the line E F on the two before mentioned plats.

It is admitted that the distance from the Bayou Road, at the point represented by the letter A on the said plat made by A. G. Blanchard, to the Canal Carondelet, is fourteen arpents, and from the same point to that represented on the said plat by the letter B, is five arpents; from the Bayou Road to the point represented in said plat by the letter N, the same distance, and from the point on said plat represented by the figure 9, to where the line, running from the said figure 9, intersects the line represented by the letters E F, is nine arpents.

It is admitted that the plan made by A. G. Blanchard, marked B, and filed to serve as a diagram for the application of the evidence, and the illustration, or explanation, of the argument of counsel, is a copy of the plat filed with the claim of the mayor, aldermen, and inhabitants of New Orleans, No. 14 of plaintiffs' evidence, and that the lines of the patent of Lafayette, as claimed by plaintiffs, and the claims conflicting with it, are correctly laid down on it. It is admitted that all the documents, filed by either party, are true copies of the originals.

It is admitted that there were judicial contests by suits before competent courts between Domingo Fleitas, the vendor of Joseph Kenton, and the said Joseph Kenton, and the said Mad. Pontalba, the said heirs of F. J. Le Breton D'Orgenois, and the legal representatives of the said J. B. McCarty and B. McCarty, in which the said Mad. Pontalba, heirs of Le Breton D'Orgenois and legal representatives of the said J. B. McCarty and B. McCarty claimed the said land under the confirmations in favor of J. B. Castella, F. J. Le Breton D'Orgenois, and J. B. MacCarty or B. MacCarty, to all of whose rights they had succeeded, and that it was finally adjudged, by judgments long since having the force of *res judicata*, that the said Madam Pontalba, the said heirs of Le Breton D'Orgenois, and the legal representatives of the said J. B. MacCarty and B. Macarty, were without any title to the said land.

C. ROSELIUS,
For Kenton and others.
MILES TAYLOR,
For Plaintiffs.

And the defendant offered and read in evidence the following:

[For map marked B, see original, page 85.]

Plan of the verification of surveys, begun in 1796, by order of the Governor-General, the Baron de Carondelet, and continued, by order of the Governor Dn. Manuel Gayoso de Lemos, until the 4th December, 1798, for the purpose of ascertaining the titles and the boundaries of the lands surrounding the commons of the city of New Orleans; which operations were performed in the presence of the town Mayor, named by the government, Messrs. Riano and Delicant Regidores, Commissioners officially named by the City Council, and Mr. Fonvergne, City Attorney, who all accompanied my operations after taking cognizance of the titles to us presented.

Charles Trudean, being duly sworn, says and declares that he was Chief Engineer to his Catholic Majesty, and that the plan on the other side is a copy of an original plan now deposited in the archives of the corporation of the city of New Orleans, which this deponent drew up on the 24th December, 1798, by order of Mr. the Baron de Carondelet, then governor of the providences of Louisiana and West Florida, for the purpose of ascertaining and fixing the commons of the City of New Orleans; which plan the deponent at that period handed in to the City Council (Cabildo), adding to this copy but a few observations for the better understanding of the operation.

(Signed) CHARLES TRUDEAN.

Sworn before me.

(Signed) JOHN WATKINS,

New Orleans, October 14, 1806. Mayor.

Land Office, Southeastern District of Louisiana.

I, Louis St. Martin, Register of the Land Office at New Orleans, do hereby certify the above plat of survey to be a true copy taken from the records of my office; the same having been recorded in this office as part of the evidence produced in support of the claim of the city of New Orleans, No. 175.

In faith whereof, I hereunto subscribe my name, this 11th day of November, 1847.

(Signed) L. ST. MARTIN,

Register.

I certify that the above plat is a copy of the copy certified Messrs. St. Martin and Trudean, to which I have added the plats showing the claim of the heirs of Lafayette, and the concession of Pradelles. The claim of Lafayette is included in the space, marked v, w, x, y; Blanc, 1, 3, 14, 11; Griffon, 2, 3, 12, 13; Moore, 3, 5, 10, 12; Kenton, marked Carlos Gardiola; Pontalba, 3, 5, 10, 12; Labarre and D'Orgenois, 5, 6, 9, 10; Canal Bank and others, 6, 7, 8, w, 9; Heirs of Chalon, 7, 8, v.

ALBERT G. BLANCHARD,

New Orleans, May 22d, 1853. Deputy Surveyor.

Plaintiffs' No. 10. *Testimony of R. Hagan—which was also offered by defendants (from printed Record filed in this case).*

Richard Hagan, for defendants, sworn, says: "That the wood on the land in dispute was cut down in 1839; that it is to his knowledge, that Mr. Hagan paid for so doing; that it is to his knowledge, that in May, 1841, Mr. Hagan made a large sale of the greater part of this land, in lots; that great many of the purchasers improved their lots; that the land was cleared to the back line; that the portion claimed by Mr. Blanc, was also cleared by Mr. Hagan. That never to his knowledge, any person claimed any portion of said land before it was cleared; that he thinks Mr. Hagan became purchaser of said land in 1835; that he does not know whether Mr. Blanc had ever taken possession of any portion of the land. He knows that a fence was put up since the land was cleared; that he is not aware that Mr. John Hagan paid taxes on a tract of land in the rear of the city for himself, and as agent for General Lafayette. That he heard but recently that Mr. Blanc had any claims on said land; that Mr. Blanc notified him at the time the land was first offered for sale."

Cross-examined.

Witness says that Mr. Hagan owns the rear of Gravier's plantation.

Plaintiffs' No. 11.

The same document as Plaintiffs' No. 9, on pages of this transcript—to which reference is here made.

Translation of Doc. No. 1, *offered by defts. 9th May*, 1853.

Don Ramon Lopez y Angula, Secretary to the King, with the administration of Decrees of his Majesty's Council, Knight Pensioner of the royal and distinguished Spanish order of Charles 3d, Intendent of the Royal Treasury of the Provinces of Louisiana and Western Florida, Superintendent-General, Subdelegated Admiralty Judge, Judge of mercantile affairs, trade, and commerce, and in cases of royal lands, lots, &c.

Whereas, Don Carlos Guardiola, a resident of this city, having presented himself to this tribunal, representing that he is the owner of a piece of ground on the St. John Bayou Road, on the left hand side in going from this said city, measuring fifty-three toises and one foot in front (where he has established his residence), without having the depth necessary to support his animals, wherefore then being in

his rear, and in the same locality of the Bayou St. John, unoccupied royal lands, as is attested by the measurement contained in the plan drawn up by the Royal Surveyor, D. Carlos Trudeau—he petitioned for the favor of a grant of the royal lands, indicated on the plan under the letters A, B, C, D, and E, F, G, H, in his rear, on the terms granted to others, his adjoining landowners; that having transmitted the documents to the Fiscal of the Royal Treasury, and to the Consulting Attorney of this Intendency, that they might express their opinions thereon; and having done so, finding no objection to the grant solicited by the aforesaid Guardiola, I decree in conformity, that he be furnished with the regular title of property. Wherefore, in virtue of the power vested in this Intendency, in the name of the King, our lord (may God preserve him), I grant to the said D. Carlos Guardiola, the royal lands by him solicited in the indicated locality of the Bayou St. John, from the boundary where the depth of the land of his residence terminates, continued on, reduced to two parts or parcels, containing together, forty-seven arpents two hundred and ninety plane superficial toises, marked under the letters A, B, C, D, and E, F, G, H, the first containing eleven arpents and two hundred and ninety plane toises, beginning in front at the line which terminates the depth of the land of his said residence, and continues to the margin of the road, seventy feet wide, which is on the bank or river alongside of the Canal Carondelet, bounded on one side, in part, by lands of his neighbor Jose Suarez, and on the other side by abandoned royal lands; and the second parcel measures two arpents in front, by eighteen in depth: this parcel of ground is bounded by the road reserved of seventy feet in width, on the bank of the Canal Carondelet, on the outward extremity of which road, this grant commences; on the sides it is bounded by royal lands, terminating in the rear by the boundary line of Mr. Gravier—which concession I make to the said D. Carlos Guardiola, as a favor, and without any benefit to the royal treasury, and upon the terms and conditions, that when he shall sell one or both of the parcels of ground included in this title, it must be to a person born in this colony, or in the dominions of his Majesty, and be his vassal; or, that selling to a stranger, he must be recognized by this Intendency, as a citizen vassal of his Majesty—under the penalty of nullity of this concession. In virtue whereof, I declare the said Don Carlos Guardiola to possess entire and direct ownership over this concession, in order that he may use and enjoy the lands with which he is favored, sell, alienate, and dispose of them as he may think proper, with his own and at his pleasure, giving him leave to take possession thereof, and to make his claim before this tribunal should he be impeded therein by any one, and in which possession I now put him, and protect him without prejudice to third parties who may have a better right thereto, on the condition that the said Guardiola and his successors to said land, shall engage to comply

Plaintiffs' No. 10. *Testimony of R. Hagan—which was also offered by defendants (from printed Record filed in this case).*

Richard Hagan, for defendants, sworn, says: "That the wood on the land in dispute was cut down in 1839; that it is to his knowledge, that Mr. Hagan paid for so doing; that it is to his knowledge, that in May, 1841, Mr. Hagan made a large sale of the greater part of this land, in lots; that great many of the purchasers improved their lots; that the land was cleared to the back line; that the portion claimed by Mr. Blanc, was also cleared by Mr. Hagan. That never to his knowledge, any person claimed any portion of said land before it was cleared; that he thinks Mr. Hagan became purchaser of said land in 1835; that he does not know whether Mr. Blanc had ever taken possession of any portion of the land. He knows that a fence was put up since the land was cleared; that he is not aware that Mr. John Hagan paid taxes on a tract of land in the rear of the city for himself, and as agent for General Lafayette. That he heard but recently that Mr. Blanc had any claims on said land; that Mr. Blanc notified him at the time the land was first offered for sale."

Cross-examined.

Witness says that Mr. Hagan owns the rear of Gravier's plantation.

Plaintiffs' No. 11.

The same document as Plaintiffs' No. 9, on pages of this transcript—to which reference is here made.

Translation of Doc. No. 1, *offered by defts.* 9*th May*, 1853.

Don Ramon Lopez y Angula, Secretary to the King, with the administration of Decrees of his Majesty's Council, Knight Pensioner of the royal and distinguished Spanish order of Charles 3d, Intendent of the Royal Treasury of the Provinces of Louisiana and Western Florida, Superintendent-General, Subdelegated Admiralty Judge, Judge of mercantile affairs, trade, and commerce, and in cases of royal lands, lots, &c.

Whereas, Don Carlos Guardiola, a resident of this city, having presented himself to this tribunal, representing that he is the owner of a piece of ground on the St. John Bayou Road, on the left hand side in going from this said city, measuring fifty-three toises and one foot in front (where he has established his residence), without having the depth necessary to support his animals, wherefore then being in

his rear, and in the same locality of the Bayou St. John, unoccupied royal lands, as is attested by the measurement contained in the plan drawn up by the Royal Surveyor, D. Carlos Trudeau—he petitioned for the favor of a grant of the royal lands, indicated on the plan under the letters A, B, C, D, and E, F, G, H, in his rear, on the terms granted to others, his adjoining landowners; that having transmitted the documents to the Fiscal of the Royal Treasury, and to the Consulting Attorney of this Intendency, that they might express their opinions thereon; and having done so, finding no objection to the grant solicited by the aforesaid Guardiola, I decree in conformity, that he be furnished with the regular title of property. Wherefore, in virtue of the power vested in this Intendency, in the name of the King, our lord (may God preserve him), I grant to the said D. Carlos Guardiola, the royal lands by him solicited in the indicated locality of the Bayou St. John, from the boundary where the depth of the land of his residence terminates, continued on, reduced to two parts or parcels, containing together, forty-seven arpents two hundred and ninety plane superficial toises, marked under the letters A, B, C, D, and E, F, G, H, the first containing eleven arpents and two hundred and ninety plane toises, beginning in front at the line which terminates the depth of the land of his said residence, and continues to the margin of the road, seventy feet wide, which is on the bank or river alongside of the Canal Carondelet, bounded on one side, in part, by lands of his neighbor Jose Suarez, and on the other side by abandoned royal lands; and the second parcel measures two arpents in front, by eighteen in depth: this parcel of ground is bounded by the road reserved of seventy feet in width, on the bank of the Canal Carondelet, on the outward extremity of which road, this grant commences; on the sides it is bounded by royal lands, terminating in the rear by the boundary line of Mr. Gravier—which concession I make to the said D. Carlos Guardiola, as a favor, and without any benefit to the royal treasury, and upon the terms and conditions, that when he shall sell one or both of the parcels of ground included in this title, it must be to a person born in this colony, or in the dominions of his Majesty, and be his vassal; or, that selling to a stranger, he must be recognized by this Intendency, as a citizen vassal of his Majesty—under the penalty of nullity of this concession. In virtue whereof, I declare the said Don Carlos Guardiola to possess entire and direct ownership over this concession, in order that he may use and enjoy the lands with which he is favored, sell, alienate, and dispose of them as he may think proper, with his own and at his pleasure, giving him leave to take possession thereof, and to make his claim before this tribunal should he be impeded therein by any one, and in which possession I now put him, and protect him without prejudice to third parties who may have a better right thereto, on the condition that the said Guardiola and his successors to said land, shall engage to comply

with the Articles of Instructions, passed by this Intendency, relative to lands in which he is included, respecting the locality, situation, circumstances, and qualities of the lands or funds, so bestowed, under the penalties imposed in such cases, and in which no ignorance shall be pleaded at any time whatsoever.

By reason whereof, I have ordered these presents to be delivered to him, signed by my hand and countersigned by the present Notary Public of the Royal Treasury, and sealed with the seal of my arms, of which the said Notary, as also the principal accountant of the Exchequer, will make due note registry as required by law. Given at the city of New Orleans, the twentieth of May, one thousand eight hundred and one.

RAMON DE LOPEZ Y ANGULO.

By order of the Intendent.

CARLOS XIMENES.

Note.—I registered this title pages 15 to 17 of the book under my charge, employed for this purpose.

XIMENES.

New Orleans, date *ut supra.*

New Orleans, 21 May, 1801.

For the principal accountants of office of the Army and Royal Treasury under my charge; due registry of the forgoing title was made in the Book, and for that purpose on page 5 and succeeding page, in virtue of what is therein ordered by the Intendent-General.

LEONARD.

Recorded in Lr. No. 1, folio 659.

J. W. GURLEY,
Register.

Here follows the plan of the above-mentioned concession.

[For Map, see original, page 90.]

Don Carlos Trudeau, Royal Surveyor for the Province of Louisiana, and for Individuals:

In consequence of the decree of his lordship, Don Ramon de Lopez and Angulo, Intendent-General of the Province of Louisiana, under date of the second of the present month and current year, I certify that I verified, fixed the boundaries of, and placed landmarks on, in favor and in the presence of Dn. Carlos Guardiola, attended by the adjoining neighbor, Joseph Suarez, and of two witnesses, Stephen Ballingin and Molino Sanaso, two parcels of land, forming together forty-seven arpents two hundred and ninety plane toises superficial, measured with the perch of the city of Paris, of eighteen royal feet lineal of the same city, of which one hundred square perches form

the arpent plane, according to the land-measure of this Province. Which lots, adjoining each other, situated in the District of the Bayou St. John, and marked in the plan, on the other side, with the letters A, B, C, D, and E, F, G, H; the first, A, B, C, D, of eleven arpents two hundred and ninety plane toises, is bounded on the northeast by lands of the party intestate; on the S. W., by a road seventy feet wide, bordering on the Canal Carondelet; on the N. W. by land granted to Joseph Suarez, and on the S. E. by abandoned royal lands. The second parcel, marked in the same plan by the letters E, F, G, H, measures two arpents in front by eighteen arpents in depth; this last parcel of land is bounded on the N. E. by a reserved road seventy feet in width on the bank of the Canal Carondelet; on the S. W. by land of Mr. Gravier, and on the remaining sides by royal lands. The said lots are 542 toises distant from the Bayou St. John, bearing E. S. E. in following the Canal Carondelet. The boundary lines are parallel, running in depth south 28° 45' west, by the actual compass, without regard to the variation, the declination being eight degrees to the N. E. On those boundary lines were placed the landmarks, designated in the plan by the letters A, B, C, D, E, G, all being of cypress wood. The first (A), five feet in total length by six inches square, and planted two feet in the earth. The second (B), five and one-half feet long by six inches square, its base irregularly shaped, and planted two feet in the earth. The third (C), planted twenty-three toises and one foot distant from the bank of the Canal Carondelet. The fourth (D), of cypress wood, three feet seven inches long by five and one-half inches square. The fifth (E), three feet long by five inches square, and planted at thirteen toises and two feet distant from the bank of the Canal Carondelet; and the last (G), three feet nine inches long by six inches square, planted fifteen toises and two feet from the margin of the basin of said Canal; the whole whereof being demonstrated more extensively on the plan drawn up for illustration.

Note.—Whereas, the lot prayed for is of fifty toises and one foot in front or width; but as it grows narrow towards the points A, B, so as between these points to be but twenty-nine toises two feet in width; in order not to trench on the lands in the rear of Madame Bertran (that lady having purchased two arpents front with the depth that might be found), the party interested, Don Carlos Guardiola, solicited that there might be measured off for him two complete arpents front on the S. W. side of the Canal Carondelet, with the depth as far as the boundary line of the lands of Mr. Gravier, and which in the eighteen arpents designated on said plan by the letters E, P, G, H, all which are royal lands overflowed, and of no use but to cut wood, &c., and that the whole of the foregoing may be made manifest, I grant these presents with the figurative plan that precedes, this ninth day of May, one thousand eight hundred and one, signed by me the present surveyor.

press wood; the first (C), four feet two inches in total length by four to four and a half inches square; the second (D), four feet four inches in length by four inches gross diameter, and imperfectly squared, buried in the ground two and a half feet, and in the direction of S. 28° 45′ W., by compass, still without reference to the variation.

This survey was made at the request of Da. Susanna Cairi, widow of D. Gabriel Peyroux, with the object of ascertaining the remainder of his land, after the survey, in favor of the aforesaid Suarez within parallel lines, and the two arpents in favor of Mad. Bertram. Said survey was made in the presence of Dr. Pedro Deselet, son-in-law of the lady party interested, both of the adjoining landowners attending. And in order that all the above recited may be made manifest, I have drawn up these presents with the accompanying figurative plan, this twelfth day of March, one thousand seven hundred and ninety-eight.

CARLOS TRUDEAU,
Surveyor.

NOTE.—On the third day of January of the present year, in presence of the Sergeant-Mayor of the city, Don Gilbert Guillemard, and attended by the parties interested, we verified and rectified the admeasurement of the aforesaid lot of ground, after having completed the two parallel arpents of the before-named Joseph Suarez; and we planted on the common boundary line, other landmarks (D, E, F, G), all of cypress wood; the D, at 30 toises from the first (C), the others (E, F, G), of equal distances from each other; the three (D, E, F), planted on the land that was dug, according to the declaration of the said Suarez, by the late Mr. Peyroux; the first (D), five feet eight inches long, by seven to eight inches square; the second (E), five feet eight inches long, by seven and a half to eight inches square; the third (F) five feet eight inches long, by five and eight inches in the square, all three pointed at the end to drive them into the mud of the said canal; the last (G), four arpents distant from the old land mark (C), is five feet two inches long, and five to six inches in the square, with three quarter bricks in the hole. And on the tenth day of the same month, we rectified likewise the common boundary line with Madam Bertram. On said line we placed three landmarks (H, J, K), all of cypress wood; the first (H), is twenty toises distant from the second and old one (B), is five feet long, by five inches square, and of thirty toises further back, at the point J, the land mark is five feet long, by six inches square; and the last (K), is five feet three inches long, by six inches square, and in each of the holes we placed two half bricks.

All these landmarks are very badly squared, with braces on the

angles; they are pointed on the top and driven or buried about two feet in the ground.

January 11th, 1799.

CARLOS TRUDEAU,
Surveyor.

[For Map referred to in foregoing survey, see original, page 98.]

Translation.

Defendants' No. 4, offered 9th May, A. D. 1853.

Know all whom these letters may see, that I, Don Carlos Guardiola, a resident of this city, acknowledged that I sell really and effectually to Domingo Fleitas, of this same city, a piece of land to me belonging, situated on the Road of the Bayou St. John, on the left hand side in going out from the town, measuring fifty-three toises and one foot in front, and with the depth according and conformably to the figurative plans drawn up by Don Carlos Laveau Trudeau, formerly general surveyor of the said city. The one under date twelfth March, one thousand seven hundred and ninty-seven, and the other the 9th March, 1801, bounded by lands of Joseph Suarez and Madam Bertrand, the same belonging to me by having acquired one portion by purchase from Da. Maria Cairi, widow Peyroux, by act before Don Pedro Pedesclaux, Notary Public of this said city, under date of eleventh February, one thousand seven hundred and ninety-nine; and the other portion whereof was granted to me by Don Ramon Lopez y Angulo, formerly Intendent-General of this same city, under date of twentieth May, one thousand eight hundred and one; the deeds and figurative plans whereof I have delivered to the purchaser, and I sell to him the said land and the buildings thereon, with its entrances, egresses, uses, customs, rights, and servitudes, free from charge or mortgage, for the price of two thousand four hundred dollars, which he has paid me in cash, and which I acknowledge to have received to my satisfaction; the payment not being at the present moment, I renounce the proof of the laws of delivery, and grant a formal acquittance; in consequence of which payment I divest myself of, and relinquish the right of property, possession, profitable ownership, and control which to said land and buildings I had, and held. I renounce the whole code, and transfer the same to the purchaser, his administrators and assigns, that as his own property, he may possess, sell, exchange, or alienate the same at his pleasure in virtue of this act, which in his favor I execute as testimony of actual delivery; whereby it may be seen that he has acquired the possession thereof, without need of further proof, from which I exonerate him; and I bind myself to the eviction, security, and making good of this sale in due form of law with my property had or hereafter to have. And being present at this act, I, the before mentioned Da. Domingo Fleitas, I accept it in my favor, receiving thereby as purchaser, the aforesaid land and build-

ings in the quantity and conditions as therein sold to me, as also that of the titles of property and figurative plans above recited: I acknowledge the receipt thereof to my satisfaction, and grant a formal acquittance.

In testimony whereof this act is passed, in the City of New Orleans, on the fifth day of June, one thousand eight hundred and five, and the twenty-ninth of American Independence. I, Narcisso Bronton, Notary Public of the United States of America, in this said city, certify that I know the contracting parties who signed, being present as witnesses, Don Fco. Marshall, and Antonio Fromentin, both residents of said city. Carlos Guardiola, Domingo Fleitas, Fromentin. Narcissus Bronton, Notary Public.

I hereby certify the foregoing to be a true copy of the original act, extant in the register now in my possession. In faith whereof I grant these presents under my signature, and the impress of my seal of office, at New Orleans, the 15th day of May, 1832.

[L. S.] WM. CHRISTY,
Notary Public.

Translation.

Defendants' 5th original, offered 9th May, 1853.

3d April, 1832.

Before Theodore Seghers, Notary Public, commissioned for the City and Parish of New Orleans, State of Louisiana, therein residing, and in presence of the witnesses hereafter named and undersigned, personally appeared M. M. Paulen, Joseph Fleitas, Jr., Manuel Fleitas, and Bartholomew Fleitas, and Madame Virginia Fleitas, wife of Louis Aisne Pegeregny, by him here present duly authorized, all of lawful age, and domiciliated in this city, which appearers are conjointly with their mother, Madame Maria Joseph Guenard, widow of Domingo Fleitas, sole heirs of the late Celestine Fleitas, their brother, deceased, intestate without posterity. Which appearers declared, that on the 21st July, 1826, with their consent, the Deputy Register of Wills proceeded to make sale of the property in community between their father, the said Domingo Fleitas, and his widow; at which sale all of said property was adjudged to the said Celestine Fleitas, as per proces verbal of the said Deputy Register.

That although the said adjudications were made in his name, it is, however, within the perfect knowledge of these appearers that the said appeared at the bidding only in the name of Madame Widow Domingo Fleitas, his mother, and had the whole of the property adjudged to him for account of said lady.

That moreover, this fact appears from two circumstances, to wit: 1st, that in the act of settlement of the succession of Domingo Fleitas, under date of 28th September, 1826, passed before J. N. Duncan, then a notary, that "she is indebted to the succession in the amount of the adjudication of the property thereof, which sums up according to the totality divided, twenty-nine thousand six hundred

seventy dollars, or $29,670. And 2d, that in effect in the act of repartition of the same succession, under date of 1st August, 1826, it was declared that the amount of the adjudication was made up as follows:—

In the first place, by the value of a negro woman, a slave, named Marion, which Madame Widow Fleitas consented by the same act which should be adjudicated to her at the price of the estimate made in the proces verbal of estimation of 20th July, 1826, drawn up by experts, and deposited in the Court of Probates: said estimate amounted to two hundred fifty dollars,	$250 00
In the second place, by the adjudication price of the slaves sold at auction by the Deputy Register, on the 21st July, 1826; which price amounts, according to the proces verbal of the said Deputy Register, to six thousand one hundred twenty dollars, ...	6,120 00
And in the third place, by the adjudication price of the real estate sold on the same day, by the said Deputy Register, which price, according to the same proces verbal, amounts to twenty-three thousand three hundred dollars, ...	23,300 00
Which makes exactly the total amount mentioned in the act of settlement, to wit: Twenty-nine thousand six hundred and seventy dollars.	29,670 00

To which two acts of repartition and of settlement passed before Duncan, Notary, the said Celestine Fleitas was a party.

These appearers acknowledge, that in virtue of the foregoing, the real property and slaves sold by the Deputy Register mentioned, and described in his proces verbal of 21st July, 1826, and adjudicated to Celestine Fleitas, belong in reality to Madame Widow Fleitas, their mother, and they acknowledge, moreover, that she has paid them their portion of the succession of the said Domingo Fleitas, and of the community that existed between her and the said deceased; and that they have no claims against her nor against the said property.

Thus done and passed in my office, in the City of New Orleans, the 3d April, 1832, the fifty-sixth year of the Independence of the United States, in presence of Victor Seghers, and Edwin L. Lewis, domiciliated in this city, witnesses, who with the parties to this act, after the reading thereof, have signed with me, Notary.

Original signed, Pauline Fleitas, J. Man'l Fleitas, By. Fleitas, Virginia Pegnegny, L. A. Pegnegny, Victor Seghers, Edwin L. Lewis, Theo. Seghers, Notary Public.

A true copy of the original, remaining deposited in my office for reference.

THEO. SEGHERS,
Notary Public.

New Orleans, June 2, 1837.

Defendants' No. 6. Sale of Real Property by the Heirs of Widow Fleitas to Joseph Kenton.

19th May, 1835.

Be it known, that on this day, before, me, Theodore Seghers, Notary Public, duly commissioned and sworn, for the City and Parish of New Orleans, State of Louisiana, and in presence of the subscribing witnesses: Personally came and appeared, Jean Manuel Fleitas, and Bartholemy Fleitas, of this city, and Virginia Fleitas, wife of Louis Aime Pegnegny, and by him, here present, duly authorized and assisted, also residing in this city, all of the age of majority. Who declared that their late mother, Marie Joseph Guenard, widow of Domingo Fleitas, died in June, eighteen hundred and thirty-four, leaving as her sole heirs the aforenamed Jean Manuel Fleitas, Bartholemy Fleitas, and Mrs. Pegnegny, jointly with Pauline Joseph Fleitas, their elder brother, each for one-fourth part of her estate. That they were acknowledged as such by the Court of Probates in this city: That the aforesaid Pauline Joseph Fleitas sold his hereditary rights to his brothers, Jean Manuel Fleitas, and Bartholemy Fleitas, by an act in this office, bearing date the sixth of November last, whereby the said J. M. Fleitas and B. Fleitas are each of them entitled to three-eighths of the estate. These appearers, in order to come to a division and settlement of the estate of their mother, have caused part of the real property of their said mother to be sold at auction, at Hewlett's Exchange, in this city, on the twentieth day of February last, by J. B. Blache, Auctioneer, at which sale the hereinafter described piece of land was adjudicated to Joseph Kenton for five thousand dollars, as appears from the certificate signed by said auctioneer, and annexed to an act in this office, bearing date the twenty-eighth of February last.

Now, therefore, these appearers, in pursuance of the said sale at auction, do hereby sell, bargain, and convey forever, with full and complete warranty of the title against all claims, hindrances, evictions, mortgages, and incumbrances whatsoever, unto Joseph Kenton, of this city, here present and accepting, a certain piece of land in the rear of this city, situated on the southwesterly side of Carondelet Canal, at the first half moon, designated as number three (Roman figures) on a certain plat drawn by Charles F. Zimple, Deputy Surveyor of this State and of the United States, under date the eleventh of February last, deposited in this office for reference. The said piece of land measuring two arpents front on said Carondelet Canal, and extending in the rear as far as Commons Street, by a depth of seventeen arpents ten toises two feet on one line, and seventeen arpents five toises on the other, or thereabouts; said lines being parallel, through which tract runs a draining canal on Canal Street, as per said plan; together with the privilege of draining the

said land into the Carondelet Canal, and with the further privilege of navigating in said Canal for the transportation of the produce of the land, and with all other rights and privileges thereunto in anywise belonging; which tract of land belonged to the said late Widow Fleitas, as having purchased the same at the public sale of the property of the aforesaid Domingo Fleitas, her husband, as appears by an act in this office, bearing date the third of April, eighteen hundred and thirty-two.

The said Domingo Fleitas had purchased his plantation fronting on the Bayou Road, and comprising the tract now sold from Carlos Guardiola, by an act bearing date the fifth of June, eighteen hundred and five, before Narcissus Brontin, then a Notary Public in this city, and the said Carlos Guardiola had acquired it by concession from Ramon de Lopez y Angulo, Intendent of the Provinces of Louisiana and Florida, for the King of Spain; which concession bears date the twentieth May, eighteen hundred and one, and is accompanied by a plan made by Carlos Lavan Trudeau, Surveyor-General, under date of the ninth May, eighteen hundred and one; which plan and concession are registered at the United States Land Office, in this city, Book No. 1, folios 656 and 659, and confirmed.

The aforesaid privilege of draining and transportation in the Carondelet Canal, is derived from an act bearing date July *July* eighth, eighteen hundred and eleven, passed before Stephen de Quinones, Notary Public in this city, containing various articles of agreement between the proprietors of the land along the Carondelet Canal and the navigation company. This sale is made for and in consideration of the sum of five thousand dollars, it being the price at which the said land was adjudicated, payable on a credit of one, two, and three years, in notes, to be satisfactorily endorsed, with mortgage on the land till final payment. Wherefore, the said purchaser has granted his six several promissory notes (to suit the convenience of the vendors), bearing date the twentieth February last, to the order of, and endorsed by Henry Spearing, each for eight hundred and thirty-three dollars thirty-three cents and one-third of a cent, two of which are payable at one year, two at two years, and the two last ones at three years from date, which notes have been countersigned ne varietur by me, the notary, in order to identify them with these presents, and have been delivered to the vendors, who acknowledge receipt thereof. And for the purpose of securing the payment of the same, special mortgage on the aforesaid tract of land is reserved by the vendors, and granted by the purchaser. By the certificate of the Recorder of Mortgages, in this city, here exhibited, bearing date the twelfth May, instant, it appears that there is no mortgage on the said land.

Now, therefore, the said vendors transfer to the purchaser all their right and title in and to the said piece of land and appurtenances, and they subrogate the purchaser to their rights and actions of war-

ranty against the preceding owner, to have and to hold the aforesaid tract of land, with all trees, rights and privileges thereunto appertaining, to the said purchaser forever, and the said purchaser acknowledges possession thereof. Also, personally came and intervened in these presents, Modeste Dorathei Cucullie, wife of the said Bartholemy Fleitas, and by him hereunto duly authorized. The said Mrs. Fleitas, after taking cognizance of this act, has been informed by me, the Notary, in the presence of the undersigned witnesses, and out of the presence of her husband, agreeably to law, that by the laws of this State a wife has a tacit mortgage on the property of her husband: 1st, for the restitution of her dower; 2d, for the replacing her dotal property alienated, whether the same had been brought in marriage, or acquired during marriage, by gift or inheritance; and 3d, for the reimbursement of the price of her extra dotal property alienated when the amount thereof has been received by her husband, or otherwise disposed of by him for his private benefit.

Whereupon she declared, that being well aware of her rights and of the consequences of this present act, she does hereby formally renounce any tacit mortgage that she may be entitled to for any of the above reasons on the aforesaid tract of land or on the undivided share owned therein by her husband; and now, her husband being present and authorizing her, she declared that she persists in the said renunciation, and she expressly relinquishes and releases any right or tacit lien that she may have in the said piece of land, and abandons the same unto the purchaser, and she finally declares that she has no marriage contract, and consequently no dotal rights.

Thus done and passed at New Orleans, in my office, on the nineteenth of May, in the year eighteen hundred and thirty-five, the fifty-ninth of the Independence of the United States, in the presence of Victor Seghers and Lewis Quemper, both residing in this city (witnesses). In faith whereof, the parties and witnesses have hereunto set their hands after due reading hereof. (Signed) J. M. Fleitas, B. V. Fleitas, Dorathei Fleitas, Ls. A. Pegnegny, Virginia Pegnegny, Joseph Kenton, Victor Seghers, Lewis Quemper.

THEO. SEGHERS,
Notary Public.

And on the same day after signing the above, the said Joseph Kenton, for the better convenience of the vendors, agreed to make nine notes instead of six. Wherefore, the six notes mentioned in the above act were returned to him and cancelled: and in lieu thereof he substituted nine notes, bearing date twentieth February last, to the order of Henry Spearing, and by him endorsed, whereof one for four hundred and sixteen dollars sixty-six cents and two-thirds of a cent, and two for six hundred and twenty-five dollars each, are all three payable one year after date: three similar notes are paya-

ble two years after date, and three similar notes are payable three years after date, which notes have been countersigned ne varietur by me, the Notary, and delivered to the vendors, who acknowledged receipt thereof, and to secure the payment of the same, the aforesaid tract of ground remains specially mortgaged. Now in the presence of the same witnesses, and in faith thereof, the parties and witnesses signed these presents with me, the Notary, after due reading thereof.

Signed, J. M. Fleitas, B. Fleitas, Dorathei Fleitas, Ls. A. Pegnegny, Virginia Pegnegny, Joseph Kenton, Victor Seghers, Lewis Quemper, Theo. Seghers, Notary Public.

I certify the foregoing to be a true copy from the original act on record in my office. In faith whereof, I have hereunto set my hand and seal of office, this twenty-first May, eighteen hundred and thirty-five.

[L. S.] THEO. SEGHERS,
Notary Public.

I, the undersigned Register of Conveyances, certify that the above act has been duly recorded in my office this day, in Book No. 17, Folios 79 and 80. New Orleans, this twenty-fifth day of May, 1835.

[L. S.] REYNES,
Register.

Defendants' No. 7, *offered* 9*th May*, 1853.

Evidence in support of the claim of Domingo Fleitas.

Notice of the claim of Domingo Fleitas, of the County of Orleans, in the Eastern District of the Territory of Orleans.

Domingo Fleitas claims a tract of land situated in the County aforesaid, about one mile from the city of New Orleans, fronting the Bayou Road, and extending in depth as far as Gravier's land, containing fifty-three toises and one foot in front, but varying in its breadth towards the rear as far as the northern bank of the Canal Carondelet, on the southern side whereof, following the same direction, it measures two arpents in front, by eighteen deep, as more fully described in the annexed plat executed by Charles Trudeau, late Surveyor-General of the Province of Louisiana, dated May the 9th, 1801.

Said land is bounded on the E. with the property of Madame Bertram and vacant lands, and on the W. with those of Joseph Suarez and the Domains. The front part of it, as far as the letters A B, was purchased of the Widow Peyroux, on the 11th day of February, 1799, by one Charles Guardiola, who, on the 20th May, 1801, obtained the grant of the remainder from the Spanish Government, by virtue of a patent issued by the late Ramon Lopez Angulo, Intendent-General at that time of the Province of Louisiana, aforesaid, as

per document No. 1. Finally said grantor transferred the whole of said land to the claimant, through a deed of conveyance passed before Narcissus Brontin, Notary Public of this City, on the 5th day of June, 1805, of which the annexed document, No. 2, is an attested copy.

Land Office, New Orleans, 8th February, 1853.

I hereby certify the foregoing to be a true copy of the original notice of claim No. 151, which was filed in this office on the 28th of February, 1806. In testimony whereof, I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Part of Defendants' No. 7.

Note.—For Map, see defts' No. 3, on page 98, which is the same.

Domingo Fleitas claims a tract of land situate in the County of Orleans, on the Bayou St. John Road, at the distance of a mile from the City of New Orleans, containing fifty-three toises and one foot in front on said Road, and extending back as far as the lands of Gravier, but varying in its width towards the rear, and bounded on the east by lands of Madame Bertran and vacant lands, and on the west by lands of Joseph Suarez and vacant lands.

It appears that part of this land, with the front and depth as far back as the letters A B, on the plat executed by Charles Trudeau, late Surveyor-General, dated May the 9th, 1801, was actually inhabited and cultivated on the 20th of December, 1803, and for more than ten consecutive years prior thereto—so much the Board confirm. The balance of the land now claimed was regularly granted on the 20th of May, 1801, by the Intendent-General, in favor of Carlos Guardiola, under whom the claimant holds, but the Board, agreeably to the act of Congress, are not authorized to confirm the title to said part.

Land Office, New Orleans, February 8, 1853.

I hereby certify the foregoing to be a true copy from the report of the Board of Commissioners for the Eastern District of the Territory of Orleans, of record in this office. And I further certify that the *the* foregoing notice of claim, evidence in support of and report on the same, are true copies of all the documents constituting the claim of Domingo Fleitas, No. 151, of record in this office.

In testimony whereof I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 8, offered 9th May, 1853.

Confirmation of the claim of Domingo Fleitas.

No. 151. Domingo Fleitas claims a tract of land situate in the County of Orleans on the Bayou St. John Road, at the distance of a mile from the City of New Orleans, containing fifty-three toises and one foot in front on said road, and extending back as far as the lands of Gravier, but varying in its width towards the rear, and bounded on the east by lands of Madame Bertran and vacant lands, and on the west by lands of Joseph Suarez and vacant lands.

It appears that part of this land, viz.: the front and depth as far back as the letters A B, on the plat executed by Charles Trudeau, late Surveyor-General, dated May 9th, 1801, was actually inhabited and cultivated on the 20th December, 1803, and for more than ten consecutive years prior thereto—so much the Board confirm. The balance of the land now claimed was regularly granted on the 20th of May, 1801, by the Intendent-General, in favor of Charles Guardiola, under whom the claimant holds, but the Board, agreeably to the act of Congress, are not authorized to confirm the claim to said part.

Land Office, New Orleans, November 4, 1852.

I hereby certify the foregoing to be a true copy from the report of the Board of Commissioners for the Eastern District of the Territory of Orleans.

In testimony whereof I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

And the defendant then offered in evidence:

A letter of Coghill to Vincent and Nott, 24 Nov., 1824,	No. 11
do. from Lafayette to Derbigny, 24 Oct., 1829,	12
Application of Duplantur, agent of Lafayette, to locate warrant No. 1,	27
Entry of locations for General Lafayette,	28
Certificate of Register on Lafayette's location,	29
	30
Letter of J. Meigs to Samuel H. Harper, 16 Feb., 1816,	31
Letter from Meigs to Harper, 25th May, 1816,	32
Letter from Harper to Crawford, 3d July, 1820,	33
Letter from Harper to Graham, 30th July, 1824,	34
Affidavit of James M. Bradford,	35
Certificate concerning the opening of Common Street,	36

To the introduction of which the plaintiffs objected, and the court, after hearing argument on the said objections, overruled the same and received the said acts, letters, instruments in writing, &c., and

they were read in evidence as follows—(for said acts, &c., see pages from to inclusive, of the transcript.)

And to the decision of the court overruling the said objections to the introduction of the said acts, letters, instruments of writing, numbered as aforesaid, the plaintiffs excepted, and tendered their bill of exception, which was signed in open court as follows:

Bill of Exceptions marked "C," filed 1853.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} U. S. Circuit Court, Eastern District of Louisiana.

Bill of Exceptions.

Be it remembered, that on the trial of this case the defendants offered in evidence the following acts, letters, instruments in writing: The correspondence of General Lafayette with his agent relating thereto; the correspondence of the officers of the Land Office and of the Treasury upon the claim and the instructions given upon the same, Nos. 11, 12, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, in the list made by the clerk, which said acts, letters, instruments in writing, &c., were offered in evidence by defendants to show—1st, That the patent to General Lafayette dated on the 4th of July, 1825, given in evidence by plaintiffs, had been irregularly and improvidently issued, and did not cover or embrace the land claimed by defendants. 2d. That Major-General Lafayette believed he had a to only 114 acres under the said patent, and that the civil or intentional possession of General Lafayette did not extend over the ground claimed in this suit. And that plaintiffs objected to the introduction of the same on the grounds following, to wit:

1st. That the patent is conclusive proof in a court of law that all the previous steps had been properly taken before it was issued; and that defendants could not in a court of law be permitted to inquire into any fact anterior to its being issued; and that after a patent is issued for a particular tract of land for which no other person has obtained a patent or holds a title equal in dignity to a patent, the United States alone has the right to contest its validity or to inquire into any facts tending to restrain its force or effect. 2d. That the effect of the patent cannot be destroyed or restrained by the views or belief of the said Lafayette, the grantee, as to its extent, and that if it were true that the said Lafayette, the grantee, did so believe and express himself to that effect, then the expression to that effect as tending to show such belief on his part, were the result of error as to the facts and law, and cannot in any manner affect, diminish or restrain the operation of the said patent in his favor, or limit in any way his right to the land described in said patent. And the court decided that the said evidence was legal evidence for the purpose of showing the extent of Lafayette's claim of possession and

title, and to show he had notice of these claims, but could not defeat his patent if otherwise valid, and overruled said objections and admitted the same, to which decision of the court, the plaintiffs excepted and tendered this their bill of exception, to be signed in open court, after the same had been submitted to the opposite parties, which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

Def'ts' No. 11, *offered* 9 *May*, 1853, *made part of the Bill of Exceptions. Letter of Sir Josiah Coghill Coghill.*

[Copy.] Ballyduff, Thomaston, Ireland, Nov. 24, 1824.

To Messrs. Vincent and Notte, New Orleans.

Gent.:—Having been recommended to apply to you respecting my property, bequeathed to me by my late brother, Sir John Coghill, I have enclosed you a power of attorney to act as my agent. I have also sent you a copy of that part of my brother's will which bequeathed it to me, as also copies of the title deed granted by Congress to my brother, both of which are attested by the American Consul in Dublin. As I do not wish to keep that property, I request you will have the goodness to dispose of it as you may deem most advantageous to me. When the property is sold and you send me notice, together with the amount I am to receive (all bills at date), I shall forward you the title deed and any other document you may think necessary. The Marquis of Lafayette is now endeavoring to procure that part of the land adjoining New Orleans which was in dispute. Mr. Gallaher, the American Consul that was in Paris some time back, informed me he was authorized by the Government to state that if the Marquis and myself would give in our resignation for the five hundred acres granted (and which seems not to be in the place we were to have located), in that case the government would give us a new grant for whatever land was there or in the city. Upon this I went to Paris, and did exactly what was necessary, together with the Marquis of Lafayette, before the American Consul in Paris, no ambassador being there. I shall, upon being put into possession of that property, also part with it. I forgot to mention that I am to have two-thirds of whatever is granted.

I am, gent., your obd't serv't,
(Signed) J. C. COGHILL.

Translation.

[Copy.] *Defendants' No.* 12, *offered* 9 *May*, 1853.

Lagrange, 24th October, 1829.

My dear Governor:

This letter will be handed to you by a cousin of Sir Josiah Coghill Coghill, a purchaser, as you know, of part of my property in

Louisiana. It is full time that Sir Joshua should know what he is to expect from his Louisiana lands; for I see that the successive agents holding his power have not well advised him what can be made out of them. You have my full power, and consequently I have no new one to give you. I confine myself, therefore, to a few observations upon the two objects which interest Sir Joshua Coghill.

The first subject is the purchases made by Sir Joshua at Point Coupee. You know that some discussion had taken place relative to the patents, No. 3, 4 and 5. I have not now before me the patents sold to the brother of Sir Joshua Coghill. They were handed to him at the time, and must be either at his house in Ireland or at his banker's in Paris; but it appears to me that the sales being anterior to those made to Messrs. Parish and Baring, the property of Sir Joshua should be exempt from the claims of third parties. Besides, I begged of you to have the goodness to have surveyed those portions of Point Coupee against which the claims of Messrs. Bouligny and Mercer might be brought forward. The patents are in perfect order, signed by the President of the United States, registered at the Land Office. If there be any errors, neither my purchaser nor myself should be held responsible therefor. The relative of Sir Joshua will no doubt join with you in having the necessary surveys made. I flatter myself that he will have as had Mr. Seymour enter satisfaction on this subject.

I now come, my dear Governor and attorney in fact, to the property situated near the town. You know all that has taken place in respect to this. I will, nevertheless, make now a short recapitulation.

It was not until Congress had given to the corporation of New Orleans six hundred yards (three hundred toises), to be taken from the fortifications, that I entered into negotiation with Sir John Coghill, whose brother, Sir Joshua, is now his heir. This portion of land, then, was not included in our bargain.

But both Sir John and myself were of opinion that there remained a greater number of acres than were found by the survey. Sir John was then to have the two-thirds, and I the third of what should be found; and, without entering into a detail of the modifications that have taken place in our arrangements, the following is the actual state of the question:

Sir Joshua and myself agreed, by a joint letter, to accept the totality of what should be found on survey the nearest to the city, after deducting the concessions made thereto, and the result of this survey, which we originally thought might be about five hundred arpents, turns out to be reduced to about one hundred and thirty. Our expectations on this subject were constantly diminishing until the moment when the survey and the patent, which I will deliver to Sir Joshua or his relative, determined the real measurement of this property.

I will next examine whether, in consideration of a subsequent correspondence between Sir Joshua Coghill and myself, I should still have a right to one-third of this property; because according to the previous agreement between Sir Joshua and myself, the whole of the property was to belong to him in case I should be called upon by him to reimburse the price of the purchase, or else to leave him the entire property. I consider it, then, as remaining with Sir Joshua to determine whether he will take the whole of this property, or whether he prefers that I should remain proprietor of a part of these acres. It is well understood that he should take two-thirds from among the best; but I make this suggestion because you might have amongst my correspondence some letters relative thereto, and I here declare that in case Sir Joshua should desire to take possession of this entire piece, I make no opposition thereto, and authorize you to deliver it to him. This way of acting appears to me the more correct, inasmuch as I received at the time eighty-five thousand francs for the two-thirds sold Sir Joshua, and that the parcel near the town appears to be very inferior in value to what Sir Joshua and myself at the time thought that it was.

I even told Sir Joshua Coghill that if he did not wish to have the lot near the town, and thought proper to relinquish to me this property, I would indemnify him by giving him five hundred acres of land a short distance from Tallahassee, the capital of the district shortly to be the State of Florida.

It appears to me that this ought to be sufficient for the cousin and agent of Sir Joshua, since all my powers, the most absolute, are in your hands, and in now introducing this relative of my purchaser, I authorize you to do everything to put him in possession. But I do not restrict myself to this authorization; and I appeal to your friendship, my dear Governor, in asking you to have the goodness to render him every service, and to give him every facility that may depend on you. You feel what importance it is to me that my purchasers should be satisfied with my conduct towards them, and this desire I experience particularly in favor of Sir Joshua Coghill.

Receive, I beg of you, the expression of my high consideration and very sincere attachment.

(Signed) LAFAYETTE.

Defendants' No. 27. *Made part of the foregoing Bill of Exceptions. Application of A. Duplantier, Agent of Major-General Lafayette, to locate Warrant No.* 1.

To the Register of the Land Office in and for the Eastern District of the Territory of Orleans:

The Petition of Armand Duplantier, Agent of Major-General Lafayette, humbly showeth:

That by the 8th section of the act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans and District of Louisiana, it is enacted, that the locations of Major-General Lafayette in the Territory of Orleans shall be made with the Register or Registers of the Land Offices, and that the surveys shall be accompanied with a certificate from the Register, stating that the land is not rightfully claimed by another person:

That the petitioner is bearer of a Warrant in favor of Major-General Lafayette, number 1st, dated the 15th of July, 1805, issued and signed by the Secretary of War, and entitling Major-General Lafayette to one thousand acres of land, to be located or received in payment according to the provisions made by law, which Warrant is thereto annexed to be filed in your office.

Wherefore your petitioner prays, that the said one thousand acres of land so granted to Major-General Lafayette may be located on the lands belonging to the United States, and lying around the City of New Orleans, including the fortifications on the parts thereof not reserved by the government, and on the Canal Carondelet as far as the bounds of McCarty's plantation; and your petitioner as in duty bound will ever pray, &c.

(Signed) ARMAND DUPLANTIER.

New Orleans, March 31st, 1806.

Land Office, New Orleans, 21st January, 1853.

I hereby certify the foregoing to be a true copy of the original on file in this office.

In testimony whereof I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 28. *Offered 9th May*, 1853. *Made part of the foregoing Bill of Exceptions. Entry of Locations made on behalf of General Lafayette, in the Eastern District of the Territory of Orleans.*

New Orleans, Register's Office, April 7th, 1806.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office a Warrant, No. 1, for one thousand acres of land, dated July 15th, 1805, issued by the Secretary of War in favor of said Lafayette, and located the same in the following tract, viz.:

"On the lands belonging to the United States and lying around the City of New Orleans, including the fortifications on the parts

thereof not reserved by the Government, and on the Canal Carondelet as far as the bounds of McCarty's plantation."

(Signed) J. W. GURLEY,
Register of the Land Office of the Eastern District of the Territory of Orleans.

N. B. The above location has been withdrawn, as by the subsequent locations appear, this 9th November, 1807.

(Signed) J. W. GURLEY,
Register.

Register's Office for the Eastern District of the Territory of Orleans.
New Orleans, November 26th, 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office a Warrant for fifteen hundred and twenty acres of land, dated July 15th, 1805, and No. 11, issued by the Secretary of War in favor of said Lafayette, and located one-third part of the in the following tract, viz.:

"On the vacant lands situated beyond the line of the six hundred yards lately abandoned by Congress to the corporation of the said city, round the fortifications of the same."

(Signed) J. W. GURLEY,
Register.

Register's Office, New Orleans, 24th January, 1824.

In pursuance of an order of the Commissioner of the General Land Office of the United States, under date of the 1st December, 1823, I have this day delivered to J. Wilson, Esq., principal Deputy Surveyor for the District, a certified copy of the above location, together with the following Warrant of Survey:

"To J. Wilson, Esq., Principal Deputy Surveyor for the Eastern District of Louisiana:

"In virtue of an order to me directed by the Commissioner of the General Land Office of the United States, under date of the 1st December, 1823, you are requested to execute the survey according to the tenor of the above location."

(Signed) SAMUEL H. HARPER,
Register.

Register's Office for the Eastern District of the Territory of Orleans.
New Orleans, August 6th, 1808.

Armand Duplantier, Agent of Major-General Lafayette, having filed in this office, on the 26th November, 1807, a Warrant for fifteen hundred and twenty acres, dated July 15th, 1805, only one-third part thereof was then located, he this day locates the two remaining thirds of the said Warrant as follows, to wit:

"On lands fronting on the right shore of the Mississippi above the settlements of Pointe Coupee, and running in depth on both sides of

Bayou Latouche, without restriction as to the quantity to be laid off on either side."

(Signed) L. DERBIGNY,
Attorney for A. Duplantier.

(Signed) B. VAN TRADELLES,
Register of Land Office.

Register's Office for the Eastern District of the Territory of Orleans.
New Orleans, 11th April, 1810.

Armand Duplantier, Agent for Major-General Lafayette, who had, on the 9th day of November, 1807, filed in this office a Warrant of one thousand acres of land, dated July 15th, 1805, and marked No. 10, issued by the Secretary of War in favor of said Lafayett , has this day located the same on the following tract, to wit:

"A tract having its front on the right shore of the River Mississippi, to begin at the distance of about twelve acres above the mouth of the Bayou Latouche, where ends another tract already located for General Lafayette on both sides of the said Bayou; then run up the river as far as the limit of the land of C. Treme, and run in depth as far as necessary to complete one thousand superficial acres."

(Signed) P. GRYMES,
Register of Eastern District.

Copy of the original published.

Notice.

Register's Office of the Eastern District of Louisiana.
New Orleans, November 26th, 1807.

Armand Duplantier, agent for Major-General Lafayette, has this day filed in this office, a warrant for 1520 acres of land, dated July 15th, 1805, issued by the Secretary of War, in favor of said Lafayette, and located on that part of the same in the following tract, viz.:— "On the vacant lands situated beyond the line of the 600 yards lately abandoned by Congress to the corporation of said city, "round the fortifications of the same."

(Signed) J. W. GURLEY,
Register.

A true copy from the record in my office.

(Signed) SAML. H. HARPER,
Register.

N. B. The above land shall be surveyed within from this date, when a certificate will issue for the same, unless it shall be previously proved to the satisfaction of the Register of the Land Office, that the said land is rightfully claimed by another person or persons.

New Orleans, 25th March, 1816.

(Signed) B. LAFON,
Agent for Lafayette.

Land Office, New Orleans, 20th November, 1852.

I hereby certify the foregoing to be a true copy from a book, marked "Entry of Locations, made on behalf of General Lafayette, in the Eastern District of the Territory of Orleans," which book is of record in this office.

In testimony whereof, I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 29. *Offered 9th May*, 1853. *Part of the Bill of Exceptions. Certificate of Register on Lafayette's Locations.*

New Orleans, Register's Office, 7th–17th, 1808.

I, B. Van Pradelles, Register of the Land Office of the Eastern District of the Territory of Orleans, do hereby certify that the land represented in the above survey made for General Lafayette, and recorded in my office in Book C, is not rightfully claimed by any other person; also that the agent of Major-General Lafayette hath caused to be published in two newspapers, published in the City of New Orleans, a copy of his application, and given notice of the time of surveying the land, and that a certificate would issue for the same on a certain day, unless it should be previously proved to the satisfaction of the Register of the Land Office, that the land is rightfully claimed by another person.

And on the back is written the following:

On the day of 1808, were returned 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ten surveys, executed by C. Morgan, Deputy Surveyor of the County of P. Coupee, bearing date viz.: Nos. 4 & 5 the 11th February, Nos. 7 & 8, 15th March last past.

N. B. Nos. 1, 2, 3, 6, 9 & 10, were also returned, but were rejected for want of certificate of their containing no improved lands (because the surveyor did not certify that they contained no improved lands).

Land Office, New Orleans, 22d January, 1853.

I hereby certify the foregoing to be a true copy of a paper of record, in the bundle of papers relative to the locations of Major-General Lafayette in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 30. *Offered 9th May*, 1853. *Part of the Bill of Exceptions. Notice of Lafayette's Locations.*

The time for the return of the survey, to be made in consequence

of the above location, and the day appointed for taking into consideration:

Notice is hereby given to all whom it may concern to come forward and show cause on or before the thirteenth day of June next, to the Register of the Land Office in and for the Eastern District of the Territory of Orleans, why his certificate should not issue, stating that the said tract of land is not rightfully claimed by any other person.

Land Office, New Orleans, 22d January, 1853.

I hereby certify the foregoing to be a true copy of a paper of record, in the bundle of papers, relative to the locations of Major-General Lafayette, in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 31. *Offered* 9*th May*, 1853. *Part of the Bill of Exceptions. Letter of Josiah Meigs to Saml. H. Harper, Register, of* 16*th February*, 1816.

General Land Office, 16th February, 1816.

Sir:—It has been represented to this office, that a location has been made near Orleans, for the Marquis de Lafayette, on a tract of land somewhat less than 500 acres, and that some difficulty has arisen to prevent the completion of the grant, in consequence of his being limited to tracts not less than 500 acres. Patents have issued to him for all the land granted, 504 acres. If, therefore, he is satisfied with the above-mentioned location, as a liquidation of his claim for 504 acres, you may issue your certificate in his favor, agreeably to the 8th section of the act of 2d March, 1805.

I believe Mr. Duplantur or Mr. Lafon is agent in this claim, to whom you may make this decision known.

I am very respectfully, Sir,
Your obedient servant,
(Signed) JOSIAH MEIGS.

SAMUEL H. HARPER, Esq.,
Register Land Office, New Orleans.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a letter on file in this office. In testimony whereof, I have hereunto subscribed my name, in the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 32. *Offered* 9*th May*, 1853. *Part of the Bill of Exceptions. Letter of Josiah Meigs to Samuel H. Harper. Register of* 25*th May*, 1816.

General Land Office, 25th May, 1816.

Sir—Yesterday I received a letter from Mr. Gallatin, by which it appears that it is of importance to the Marquis Lafayette, that a patent should issue, as speedily as possible, for the tract of land (about 500 acres), respecting which I wrote you on the 16th of February last. You will, therefore, be pleased to see the Agent of the Marquis, and inform that you are ready to issue a patent certificate on his presenting to you the warrant and location. The patent certificate you will transmit to this office, and then a patent will be issued. I am very respectfully, Sir,

Your obedient servant,

(Signed) JOSIAH MEIGS.

SAMUEL HARPER, ESQ.
Register Land Office, New Orleans.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a letter on file in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 33. *Offered* 9*th May*, 1853. *Part of Bill of Exceptions. Letter of Samuel H. Harper to Hon. W. H. Crawford, of* 3*d July*, 1820.

New Orleans, 3d July, 1820.

Sir—In reply to your letter of the 5th ultimo, I shall begin by giving a history of the conduct of the agent of General Lafayette in relation to his claim near this city, as appears from the documents in my office. It is stated under the signature of John W. Gurley, Esq., the then Register, that, on the 7th day of April, 1806, Armand Duplantier, Agent for Major-General Lafayette, filed, in this office, a warrant No. 1, for one thousand acres of land, dated July 15th, 1805, issued by the Secretary of War, in favor of said Lafayette, and located the same in the following tract, viz.: "On the lands belonging to the United States and lying around the City of New Orleans, including the fortifications in the parts thereof not reserved by the Government, and on the Canal Carondelet as far as the bounds of MacCarty's plantation."

Mr. Gurley has added below: "The above location has been withdrawn, as by subsequent locations appears." On the 26th day

of November, 1807, the same officer has recorded that "Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office, a warrant for 1520 acres of land, dated July 15th, 1805, and Number 11, issued by the Secretary of War in favor of said Lafayette, and located one-third part of the same in the following tract, viz.: 'On the vacant land, situated beyond the line of six hundred yards lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same.'"

In March, 1816, I received the following letter from the General Land Commissioner, dated 16th February, 1816:

"Sir—It has been represented to this office that a location has been made near Orleans for the Marquis de Lafayette on a tract of land somewhat less than 500 acres, and that some difficulty has arisen to prevent the completion of the grant, in consequence of his being limited to tracts, not less than 500 acres. Patents have issued to him for all the land granted, except 504 acres. If, therefore, he is satisfied with the above-mentioned location as a liquidation for his claim for 504 acres, you may issue your certificate in his favor agreeably to the 8th section of the act of 2d March, 1805. I believe Mr. Duplantier or Mr. Lafon is agent in this claim, to whom you may make known this decision.

(Signed) "JOSIAH MEIGS."

To this order, on the 15th July, 1816, I replied as follows:

"It appears from a document in my office, that Armand Duplantier, then acting as agent of Lafayette, did, on the 26th of November, 1807, file with the then Register (Jno. W. Gurley), a warrant for 1520 acres of land, at the same time locating one-third part thereof in the words following, viz.: 'On vacant land situate beyond the line of six hundred yards lately abandoned by Congress to the Corporation of said city (meaning New Orleans), round the fortifications of the same.' Now Mr. Lafon, who appears to be the agent of Sir John Coghill, assignee of General Lafayette, says, he is unwilling to accept of lands *outside* of the fortifications, because they are of no value; but is willing to accept of lands *within* the fortifications, and if so, whether an actual survey be necessary previous to issuing such certificate."

Such was my letter to Meigs, and to which I have never received any answer.

It has been owing to the confliction between the two agents, I have mentioned, that this claim has not long since been adjusted. Lafon, the agent of Sir John Coghill, would be satisfied with the first location made by Duplantier; but that having been withdrawn, it is contended that it cannot be now acted on. As to the first thing you wish me to furnish, viz.: a copy of the plat or survey of the land located; it is not in my power to do so, inasmuch as no survey has

ever been made, or if made, it has never been returned into my office.

As to the second thing required, viz., the dates of the location; those I have had the honor to furnish.

Thirdly, with regard to "a description of the unlocated land near the city, upon which the location might be made, showing the quantity so disposable," I am unable to give a satisfactory answer, owing to the fact that the surveys of this district have never been made, and it is therefore impossible for me to ascertain, with any degree of accuracy, what is the quantity of the public land near the city or elsewhere. I can only state generally my own impression, that the land beyond the line of the six hundred yards given to the city, whether public or private property, is of little value. I regret that it is not in my power to afford any greater light upon the subject than I have done, but should gladly obey any order of the Government which would benefit General Lafayette.

I have the honor to be, Sir,
Your obedient servant,
(Signed) SAML. H. HARPER.

Hon. WM. H. CRAWFORD.

Land Office, New Orleans, 20th Jan., 1853.

I hereby certify the foregoing to be a true copy on file in this office. In testimony whereof, I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Def'ts' No. 34, *offered* 9*th May*, 1853, *made part of the foregoing Bill of Exceptions. Letter of Saml. H. Harper to Geo. Graham, of* 30*th July*, 1824.

Register's Office, New Orleans, 30th July, 1824.

Sir:—Your letter of the 28th ult. has just been received. On the 24th March last, I wrote you as follows:

"For a long time after your directions arrived for the survey of the lands of the Marquis Lafayette, it was impracticable to make it, owing to the land being under water. I am now informed by Mr. Wilson, that the survey has been completed as nearly as the water, still remaining, will admit, but it is ascertained that no more public land can be found than the quantity exhibited in the plat made by Mr. Lafon. I am at a loss to know whether it would be proper, that I should issue a final certificate for that quantity."

I do not know whether the plat has ever been completed. If it has, I have not received it. I know that the tardiness with which this business has progressed, must be a source of great vexation to

you, but I have no control over the surveyor, and unless he furnishes me with the plat, I cannot issue a final certificate.

With great respect, your ob't servant,

S. H. HARPER.

GEO. GRAHAM, Esq.

Land Office, New Orleans, 20th Jan., 1853.

I hereby certify the foregoing to be a true copy of a copy on file in this office. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Def'ts' No. 35, offered 9th May, 1853, made part of the foregoing Bill of Exceptions. Affidavit of James M. Bradford, one of the editors of the Orleans Gazette, &c.

Notice.

Register's Office of the Eastern District of the Territory of Orleans.
New Orleans, 9th November, 1807.

Armand Duplantier, agent for Major-General Lafayette, has this day filed in this office, ten warrants for one thousand acres of land each, dated July 15th, 1805, and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, issued by the Secretary of War, in favor of said Lafayette, and located the same in the following tracts, viz.: "In the vicinity of Point Coupee, in the said district, about five thousand acres lying on the Mississippi, between Bayou Latouche and a tract of land belonging to Mr. Montchauss, of Point Coupee; and above five thousand acres, lying also on the Mississippi, between Bayou Moreau and Chafalaya; in all, about ten thousand acres."

(Signed) J. W. GURLEY,
Register.

A true copy from the record in my office.

(Signed) J. W. GURLEY,
Register.

N.B. The above land shall be surveyed within two months from this date, and a certificate will issue for the same on the 1st March, 1808, unless it shall previously be proved, to the satisfaction of the Register of the Land Office, that the said land is rightfully claimed by other persons.

ARMAND DUPLANTIER.

New Orleans, Nov. 23.

I do hereby certify that an advertisement of Mr. Armand Duplantier, containing a publication of John W. Gurley, Esq., Register of the Land Office of the Eastern District of the Territory of

Orleans, certifying the filing in his office of ten warrants for lands of the Marquis Lafayette, a copy of which advertisement is hereto attached, was published three times in the Orleans Gazette, commencing the 26th November, and ending the 2d December, 1807.

(Signed) JAMES M. BRADFORD,
One of the Editors of the Orleans Gazette.

Sworn to before me, the 16th day of June, 1808.

(Signed) JOSHUA LEWIS.

Land Office, New Orleans, 21st Jan. 1853.

I hereby certify the foregoing to be a true copy of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 36, *offered 9th May*, 1853, *made part of the foregoing Bill of Exceptions. Certificate concerning the Opening of Common Street.*

Extract.

Opening and Improving Streets. Common Street.

Making a Shell Road thereon from Galvez to the new Canal.

1848.		
May 15,	Dr. J. Wedersbrandt,	$400 00
	George M'Colley,	457 00
	G. W. Johnson,	1,619 00
	John Hagan,	6,024 00
	H. J. Ranney,	1,742 00
	Evaresti Blanc,	844 00
	Joseph Kenton,	450 00
	Mme. De Pontalba,	3,858 25
	Estate of Nicolet,	246 75
	Samuel Moore,	246 75
	Joseph N. Labarre,	691 00
	N. O. Canal and Banking Co.,	1,056 50
	Heirs of J. Chalon,	3,365 25
	Municipality No. 2,	4,675 00
		$25,675 50

A true copy from the original on file in my office.

O. DE BUYS,
Commissioner.

And the defendants then offered in evidence the notice of the

claims of J. B. Castillon, Charles Griffon Le Breton D'Orgenois, and Jn. Bte. Macarty, as filed in the Land Office at New Orleans, on 31st December, 1806, and 12th June, 1808, and a confirmation of the same by the Board of Commissioners and by Act of Congress, and that the plaintiffs objected to the introduction of the same, so far as it might be offered to show an outstanding title to the land claimed by plaintiffs in this action from the defendants, and the Court, after hearing argument on the said objections, overruled the same, and received the said notice of claim, and they were read in evidence, as follows:

Defendants' No. 42, *offered 9th of May*, 1853. *Claim of Castillon.*

Translated as follows.

[For map, see original, page 133.]

Translation of Defendants' No. 42, *offered 9th May*, 1853.

This day, December 20th, 1806, Jean Bte. Castillon, an inhabitant of this city, presented himself at the office established for the verification and regulation of land titles in the territory of Orleans, and District of Louisiana, in virtue of the Act of Congress of 2d March, 1805, who declared that since the year 1792, when he settled in this Province, he has there become proprietor of and is in possesof the lands hereafter mentioned, of which he makes the declaration as follows:

1st, 2d, 3d, 4th, 5th, 6th, 7th.

These items are left out by request.

CH. FRITZ,
Register.

8th. A plantation belonging to Madame Castillon, situated on the Bayou St. John Road, on the left hand on leaving the city, between Mr. Griffon and Mr. Castaquedo, measuring six arpents in front on said road by forty in depth (if so much there be, inasmuch as it extends to the boundary line of the heirs of Pradel, now John Gravier), the said plantation derived from the succession of the late Almonester y Roxas, who acquired it from the heirs of Voesin, on the 2d day of July, 1782, before the notary, and these last had purchased it of Mok Ducmurel Moran and Alexander Latelle, who had it from Mr. Le Breton, the grantee of Mr. Vaudreuil et Michel, Intendent-General and Ordonnateur-General, under date of 29th April, 1852.

9th. A plantation also belonging to Madame Castillon, derived from the aforesaid succession, Almonester, called La Fourch, situated on the other side of the Bayou St. John, between the lands of Mr. Dornipeaux, now , and the lands of the Metairee, consisting of arpents, purchased from Joseph Chalon, who held from

Henry Dapus and his wife, Widow Duplantz, who purchased from Madame de Montleon, to whom it was granted by Mr. de Kerlour, on 10th of May, 1758.

In testimony whereof, and in compliance with the law, I have made this present declaration, this 20th December, in the year 1806.

(Signed) J. B. CASTILLON.

Land Office, New Orleans, 25th January, 1853.

I hereby certify the foregoing to be a true copy of the original (with the exception of items 1 to 7 omitted), filed in this office, on the 31st December, 1806, under No. 308. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Translation of doc. 42 *continued.*

Survey.—See Plat, hereto annexed.

District of St. Jean; Road; Left-hand side.
At New Orleans, the 24th April, 1806.

I, the undersigned, Bartholemew Lafon, Deputy Surveyor of Isaac Briggs, Surveyor-General of the Territories south of the Tennessee, certify that, at the request of Mr. Jean Bte. Castillon, a resident of this city, I repaired to a tract of land, situated a quarter of a league from New Orleans, to measure the contents, fix the landmarks or renew them in case of need, establish the lines between the adjoining neighbors, &c.

Being on the ground, I required of him to produce the documents which authorized him to have the operation performed, and he presented to me the following: 1st. An act of 24th August, 1758, by which Louis Ceaser Le Breton gives to Louis de Meraud a piece of land, fifty-one toises in front by a depth extending to the heirs of Pradelles.

2d. An act of 30th May, 1757, by which Louis Ceaser Le Breton sells to Madame Coulange a piece of land, of six arpents 14 toises, from which the two (arpents) above mentioned were detached.

3d. An act of 30th June, 1758, by which this land was adjudicated to Mr. De Latelle, as eight arpents.

4th. An act of 13th November, 1776, by which Alexander Latelle and Domini de Morand sell to Anna Marie Cirbin, Widow Voisin, eight arpents of this land.

5th. An act of 2d July, 1782, by which Pierre Voisin, Julius Lessassier, Charles Griffon, and Anna Voison, sell the said piece of land to Don Andres Almonester.

6th. A proces verbal of a survey of the 4th April, 1783, by which Charles Laveau Trudeau measures six arpents of land in favor of the above mentioned; the lines parallel, running S. 50° W.

There being present the immediately adjoining neighbors, Antoine Ramos, Charles Griffon, Jean Baptiste Castillon, claimant, Jean Laralde, Louis Le Breton, and Pierre Pedesclaux, assisting witnesses, I proceeded to the admeasurement of the above-mentioned piece of land. I went to the point A, and then taking a direction S. 49° 55′ W. by compass, I opened and placed landmarks on the land dividing their lands from those of Antonio Ramio, and measuring from the said point A nine toises, I planted the landmark B. From the point B, measuring thirty-six toises three feet, over cleared land, I planted a second landmark of cypress; measuring thirty-nine toises three feet, I planted another landmark, C. I continued the measurement to the point E, where I stopped, and planted a cypress landmark; the whole of this line being thirty-seven arpents fifteen toises in depth to the point "E."

Returning to the point A, I took the direction of a line running S. 40° 5′ E., and I measured upon the dotted line six arpents, forming the front of said plantation. On arriving at the point M, I directed my graphometer towards S. 49° 55′ W. (variation N. 8° 10′ E.), and measuring two toises of the way, I found an old stump of a tree, and planted the landmark N. From this point measuring thirty toises, I found another stump, and planted a landmark, O; measuring again 905 toises, I stopped; the line being in length thirty-four arpents and twenty toises. These old landmarks were placed by Mr. Laveau, in 1783.

The owner having shown me sufficient titles, I measured the depth upon the lands which I had previously surveyed for Mr. Lafayette; so that there results in favor of Jean Baptiste Castillon, a lot of land bounded on the north by Antonio Ramos, on the south by Charles Griffon, on the west by Jean Gravier, and on the east by the Bayou Road, having a superfice of two hundred and sixteen arpents, of which 30 are cultivable, no cypress swamp, nor high prairie, and the rest swamp.

In faith of which, I have given the present plan and proces verbal.

LAFON.

Deed.

Before the Royal Notary of the Province of Louisiana, residing in New Orleans, in presence of the undersigned witnesses, personally appeared Mr. Louis Cesar Lebreton, Counsellor, Assessor to the Supreme Council of the Province of Louisiana, who by these presents, acknowledged and confessed to have, this day, sold, ceded, given up, set over, relinquished from this moment and forever, and engages to guarantee from all disquietude, his acts, and promises to Madame Francoise Petit de Colange, widow of the late Mr. Vincent Guilliaume D'Auberville, Commissary of Marine, and Intendent

of this Colony, here present, and accepting for herself, her heirs and assigns, the quantity of six arpents fourteen toises and four feet of land, fronting on the road of the Bayou St. John, on the left hand on going from the city to the said Bayou, by the same depth that my said late Sieur D'Auberville acquired from Brasillier, called Touraugean, such and the same that was to him granted by Mr. de Vaudreuil et Michel, Governor and ordinary Commissioner of this Colony, under date of 29th April, 1752, and according to the survey thereof made by Mr. Deverges, Royal Engineer, and Olivier, principal Inspector of highways and surveyor, by which survey there were found to be eight arpents fourteen perches four feet, out of which the said vendor reserves two arpents front by the depth thereof, adjoining the succession of Mr. de Morant, and bounded by his lands; the said six arpents fourteen perches four feet, now sold, adjoining on the other side to the lands which my said Sieur D'Auberville purchased from the said Touraugean, on which land there are no buildings or enclosures, and in the same state in which it is now found, and is, with its circumstances and dependencies, to the end that my said lady and others may enjoy it in full property, as a thing to her belonging, in the same way as it was enjoyed by my said Sieur Lebreton, who declares the said land to be free and exempt from all debts and mortgages. The aforesaid sale, cession, and transfer thus made, for the price and sum of two thousand one hundred and forty livres, which my said lady promises to remit and pay over immediately to my said Sieur Le Breton, together with an Islet (Isle) forming the corner of the town, on the side of my said Sieur de Morant, which my said lady delivers immediately to my said Sieur Lebreton, the title to which she promises to deliver; by means whereof, my said lady will remain in good and due possession of the land to her sold by my said Sieur Lebreton, promising mutually each to the other guarantee and indemnity against whosoever it may be they oblige, renounce, &c.

Done and passed at New Orleans, in my office, in the year 1757, on the 30th day of May, in the presence of Messieurs de la Bousseye, Chevalier de St. Louis, and Devangen, an officer, related by marriage to my said lady, and signed accordingly. Lebreton, Coulange, D'Auberville, widow, Devangen, Grano Pic, and I, notary, undersigned.

CHANTALON.

And lower down is written: The said sum of two thousand one hundred and forty livres were, on the instant, handed over and paid to my said Sieur Lebreton.

Thus signed Lebreton, and I, notary, undersigned

CHANTALON.

Auction.

Louis, by the Grace of God, King of France and Navarre, to all whom these presents may come, Greeting:

We make it known, that in virtue of the decree of the Supreme Council of the Province of Louisiana, under date of the present month, obtained at the request of Madame Francoise Petit de Coulange, widow of the late Mr. D'Auberville, mother and tutrix of the minor children of the deceased, and herself, the said deceased, bearing the homologation of an assembly of kinsmen and friends, it is ordered in view of the determination of the King's Attorney-General, that a piece of land and plantation pertaining to the said succession, shall be sold judicially to the highest offerer and last bidder, in the mode accustomed, the money arising therefrom to be placed and employed for the benefit and advantage of the said minors. In consequence of all which, advertisements had been published and posted in all the accustomed and ordinary quarters and places of this city of New Orleans, as appears by the proces verbal of le Normand, Constable, under date of the 5th of the present month, stating that on the 10th of said month, at nine o'clock in the morning, the first offers and bids would be received for a lot of land and plantation belonging to the succession of the late Mr. D'Auberville, having about twelve arpents front, by the depth that might be then found, situated on the Road of the Bayou St. John, touching on one side lands of Mr. Latil, and on the other those of Mr. Tournagean; on which land is a cabin of pickets and posts driven in the earth, and a few fences, in the manner and state in which the whole may be found with its circumstances and dependencies, even without any guarantee more or less, of the said twelve arpents front. The terms and conditions of the sale, that the purchaser should pay in cash, before being put into possession, the price of the adjudication, with all the expenses incurred to effect the same. At an audience held at the Bar of the Court on the tenth day of the present month, *on the tenth day of the present month* of June, 1757, at nine o'clock in the morning, before Mr. Hutchit de Kerneon, Counsellor, Assessor of said Council, commissioner named in this case; Raguit, Counsellor of said council, acting as King's Attorney-General; there being present a number of bidders, the aforesaid terms and conditions having been read and explained in a loud and intelligible voice by the constable crier, Mr. Duplantier came forward and bid for the said land and plantation, the sum of three thousand livres, and after having waited from nine o'clock in the morning until the clerk struck down without having any other bidders coming forward, a decree of same date intervened, ordering that new bills or advertisements should be published, and posted on the Sunday following, 12th of same month, in all the places, &c.

(Here follow and are inserted the second and third notification of sale.)

And on the 30th of said month of June of said year, nine o'clock in the morning having come, the audience being held at the bar of the court, and before my said Sieur H. Kerneon, in presence of the King's Attorney-General as per proces verbal of notifications posted of le Normand, porter, under date 26th of the said present month, the said sale and adjudication to-day made public by beat of drum at all the corners of the streets in this city of New Orleans, and there being then present a number of bidders, it was published and proclaimed in a loud and intelligible voice, by the constable crier, that they were about to proceed definitively to the sale and adjudication to the highest and last bidder of the before-mentioned land and plantation, its appurtenances and dependencies, without reservation, nothing retaining and without any guarantee of more or less, upon the above-mentioned terms and conditions; upon which Mr. Tomassen came forward and bid the sum of 8750 livres; and by Mr. Latelle was bid the sum of 900 livres; and after having waited till it struck eleven without any other bidder coming forward, the above-mentioned land and plantation, appurtenances and dependencies, in the state in which the whole should be found, were adjudicated by consent of the parties interested, and by my said Sieur, the King's Attorney-General, definitively, purely and simply to the said Senior Latil, at the before-mentioned sum of nine thousand livres and the expenses incurred in making said sale; for which purchase he promised to pay down three thousand livres, three thousand livres more in one year, counting from this date, for securing which payments he has bound, affected and mortgaged all his property, real and personal, having and to have, especially the aforesaid land, and elected his domicil and house in this city, in which place, for the execution of these presents, all writs requisite and necessary shall be addressed, and in virtue of which payments made, he will become the lawful and free proprietor of the said land and plantation, having acknowledged that he is in good and due possession of the whole, and with which he is content and satisfied, to be by him used, enjoyed and disposed of as a property to him belonging in full right; no opposition whatever having taken place during the course of said auctions and publications, we order our principal constable or sergeant to make out for the execution of these presents all writs requisite and necessary. Given at the Council Chamber in New Orleans, the 30th June, 1757.

By the Council.

CHANTALON,
Clerk.

Deed or Donation.

Before me, Parliamentary Attorney and Royal Notary for the Province of Louisiana, residing in New Orleans, personally appeared Mr. Louis Ceaser Lebreton, Counsellor of the Superior Council of said Province, who, through the warm affection and sincere friendship

that he says he bears to Mr. Louis de Morand, his godson, acknowledges and confesses that he did this day by these presents voluntarily give, cede, relinquish and renounce, by donation *intervivos*, irrevocable, in the firmest manner that can be done, without power to revoke hereafter for any cause whatsoever, and for more ample security for the same, promises and binds himself to guarantee from all claims the said Louis de Morand, his godson, a minor; Mr. Alexander Latel, his guardian, here present, accepting for him, his heirs and assigns, a piece of land composed of two arpents by the depth that may be found, adjoining on one side lands of the succession of the deceased Mr. de Morand, and on the other side by lands which my Sieur Latel purchased from Madame D'Auberville, nothing whatever reserving or retaining; the said Sieur Lebreton preserving for himself all other property movable and unmovable to which the said donee can have no pretension whatever, other than what the said donor may hereafter bestow on him, should he so think proper—that the said land above donated, he the said Sieur may enjoy, use and dispose of as a thing to him belonging; and in case of need to have the same recorded in the office of Registration and elsewhere, within the four months of the *ordonance;* the contracting parties constitute and appoint as their attorney the bearer of these presents, giving him full power with authority to demand certificates thereof, submitting and obligating ourselves, each one in good faith according to law, and renouncing, &c.

Done and passed in my office, in the city of New Orleans, the 24th August, 1758, in presence of Messrs. Pierre Gardera, Surgeon-major, and Audre Sadons, witnesses there residing, and who all (except the donee, in consequence of his tender age, the said Mr. Latel signing for him), have signed the same with me, the said Notary. Lebreton, Latel, Sadons, Gardera, and Garci, Notary.

Correction.

This day, 29th April, 1765, at ten o'clock in the morning, appeared at the clerk's office of the Superior Council of the province of Louisiana, and before me, Royal Notary for said province, Mr. Louis Cesar Lebreton, Counsellor of the Court of Paris and Lord of Carseaur Chenereaux, &c., who to me declared and said: That in regard to the donation made on the other page of two arpents of land in favor of Mr. Louis de Morant, his godson, in order to prevent in future any difficulty or litigation with the adjoining proprietors of the said two arpents, he had this day caused the said land to be surveyed, and according to the proces verbal, under date of the 12th of the present month, and the plan thereunto annexed, there were found to be fifty-one toises and one foot of land in front, with a depth to the lands of the heirs of the deceased Pradel, which fifty-one toises and one foot the said Sieur Lebreton means and intends

as the only thing it was in his power to give, having no more; for which reason the donation on last page must be restricted and limited to the quantity of fifty-one toises and one foot—bordered on one side by the succession of the deceased Mr. de Morand, and on the other side by the Sieur Latel, and he wills and understands also in like manner that the conditions expressed in the said proces verbal, should be carried into full and entire effect, approving and ratifying moreover the said donation on the other page; and he required of me to unregister the present declaration in my book of acts, which request is granted.

Done and declared at New Orleans, the above-mentioned day, month, and year, in presence of Messrs. Alexander Latel and Henry Gardat, witness required and here residing, who have signed with me, notary. Le Breton, Latel, Henry Gardat.

GARCI,
Notary.

Deed.

Know all those who these letters may see, that we, Don Alexander Latel and Don Louis Doemary de Morant, inhabitants of this city, declare that we sell, really and truly, to Donna Ana Maria Corbin, Widow Voisin, a plantation, composed of eight arpents front, with the depth that may be found, and in conformity with the titles; said plantation is situated on the road of the Bayou St. John, bounded on one side by the heirs of Pablo Moran, and on the other by the free negro named Lannette, the same that belongs to us. I, the said Latel, having purchased six arpents at the public sale of the property of Mr. D'Auberville, on the 30th June, 1757, and I, the said Louis Morand, two arpents that were donated to me by Don Louis Cesar Le Breton by donation of 24th August, 1758: And we sell them to him free from charge or mortgage, to which I, the present Notary, Recorder of mortgages, certify after inspection of the books thereof under my charge, and for the price of twelve hundred dollars, of which sum she has paid us six hundred and fifty in cash that we acknowledge as delivered, and grant acquittance in due form: And the five hundred and fifty dollars remaining are to be paid to the said D. Alexander Latel or his representatives, in all the month of October, 1777, the longest credit, fully, and without lawsuit, with the expenses that the collection may give rise to; in virtue of which payment we desist from and relinquish all right of property, profitable possession, ownership and other actions real and personal which to the said land we had and held, and the whole we renounce and set over to the said Anna Voisin or her representatives, that as her own to her belonging, she may possess, enjoy, or alienate at her pleasure, in virtue of this act, which we execute as testimony of real delivery. And we bind ourselves to the making good of this sale in due form of law without our persons and property had or to have:

and we authorize the tribunals of his Majesty to compel us to the fulfilment thereof, &c. And being present, I, the said Anna Maria Corbin, I accept this act, and by it receive as purchased the said land in the quantity and condition stipulated as sold to me, and I acknowledge the same as delivered. I renounce the proof, laws, &c., and grant a formal receipt, by which I constitute myself debtor and full in the sum of the said five hundred and fifty dollars, which I will give and pay to the said Latel, or whoever may hold his power, within the time stipulated in the act, fully and without litigation, with the expenses that the collection may occasion, consenting that an execution may be taken out on the production of this act alone, and the simple oath of the lawful party with whom this is covenanted; and for further security of my obligation without the general obligation annulling the special nor the contrary, but both actions may be used against my other property. I bind and hypothecate especially, with the expressed claim of *non aliendo*, the said land, which I engage not to sell nor in any manner alienate until I have entirely satisfied the said $550 in penalty of nullity: And for the security whereof the said parties each for what concerns them, authorize all tribunals, &c. I, the said Dn. Louis Dormary de Morand, declaring that I am satisfied with what comes to me from said Latel for my two arpents of land. In testimony whereof this act is passed in the city of New Orleans, on the 13th November, 1776. I, the notary, certify that I know the contracting parties who signed it, being witnesses thereto—Dn. Jose de la Place, Dn. Pedro Couteurer and Senor Louis Lestar, then present. Alexander Latel, Louis Doemary de Morant, Anna Maria Corbin Vieuve Voisin.

ANTONY JUAN BTA. GARCI,
Notary Public.

Corresponding with the original before me passed, remaining in my power in the archives of my office, to which I refer; and at the request of a party interested I grant these presents on the date of the execution of the act. In testimony of the truth whereof.

JUAN B. GARCI,
Notary Public.

Land Office, New Orleans, 28th January, 1853.

I hereby certify the foregoing to be a true copy of the evidence in support of the claim of Jean Baptiste Castillon. No. 308 of Record in Book No. 2 (pages 633 to 645). In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

No. 308. Jean Baptiste Castillon claims the following tracts of land, situate in the County of Orleans, viz.:

1st, 2d, 3d, 4th, 5th, 6th, and 7th, are left out by request.

CHARLES FRITZ,
Register.

8. A tract situate on the left side of the Bayou St. John Road, in going from the city, containing six arpents in front, and extending back to the lands of Jean Gravier, and bounded on one side by lands of Mr. Griffin, and on the other by land of Mr. Castanedo.

9. A tract of land situate on the Bayou St. John, containing seven hundred and eighty-eight superficial arpents, and bounded on one side by land of Mr. Dernesseaux, and on the other by lands of Metarie.

The decision on the seven tracts enumerated, 1 to 7, is left out by request.

CHARLES FRITZ,
Register.

It appearing that the eighth tract claimed, was actually inhabited and cultivated on the 20th December, 1803, and for more than ten consecutive years prior thereto, the Board confirm the claim. The ninth tract of land now claimed, it appears was granted in 1758, by the French Government, to M. Monleon, under whose title the present claimant holds; the Board confirms the claim.

Land Office, New Orleans, 25th January, 1853.

I hereby certify the foregoing to be a true copy from the report (with the exception of the parts left out by request) of the Board of Commissioners for the Eastern District of the Territory of Orleans, of record in this office. In testimony whereof, I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Land Office, New Orleans, 7th February, 1853.

I hereby certify the foregoing to be a true copy of all the documents in relation to the claim of Jean Baptiste Castillon, No. 308, being 1st, the notice of claim, 2dly, the evidence in support of the same, and 3dly, the decision on the same, by the Board of Commissioners, of record in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

And to the decision of the court overruling the said objections to the introduction of the said evidence, the plaintiffs excepted, and tendered their bill of exceptions as follows:

Copy of Bill of Exceptions, marked "D."

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.

United States Circuit Court,
Eastern District of Louisiana.

Be it remembered, that on the trial of this case, the defendants

offered in evidence the notices of the claims filed by J. B. Castillon, F. J. Lebreton D'Orgenois, and J. B. Macarty and B. Macarty, in the Land Office at New Orleans, and the confirmations of the same by the Board of Commissioners and by act of Congress, to show an outstanding title to the land claimed by plaintiffs from the defendants in this suit, in Mad. Pontalba, the heirs of Le Breton D'Orgenois, and the legal representatives of J. B. Macarty and B. Macarty; and that the plaintiffs objected to the introduction of the same, on the ground that in judicial contests between the said Joseph Kenton and his vendors, and the said Mad. Pontalba, the said heirs of Le Breton D'Orgenois, and the legal representatives of said J. B. Macarty and B. Macarty, in which they, the said Madame Pontalba, heirs of Le Breton D'Orgenois, and legal representatives of said J. B. Macarty and B. Macarty, claimed the said land under the said notices of claims and confirmations, it was finally adjudged by judgments long since having the force of *res judicata*, that the said Mad. Pontalba, the said heirs of Le Breton D'Orgenois, and legal representatives of J. B. Macarty and B. Macarty, were without any title to the said land, and that defendants could not be permitted to show outstanding titles resulting from said claims and confirmations to the said land, because the same are not valid and subsisting legal titles, upon which a recovery of the land claimed could be had in an action at law. And that the court decided that the said evidence was legal evidence, and overruled said objections, and admitted the same, to which decision the plaintiffs excepted, and tendered this their Bill of Exceptions, to be signed in open court after the same had been submitted to the opposite parties, which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

And the plaintiffs then offered and read in evidence, by way of rebuttal, the following (as stated in the list of evidence, and numbered 12 to 14 inclusive):

Plaintiffs' No. 12 (*Rebutting Evidence*). *Withdrawal of Hagan as Intervener in three suits in Fourth District Court, New Orleans.*

GRIFFON et als.
v.
EVARESTI BLANC.
} Fourth District Court of New Orleans. No.

I, John Hagan, of the City of New Orleans, one of the plaintiffs named in the petition in intervention, filed in the above-entitled case, by Thomas Curry, Attorney and Counsellor at Law, in the name of John Hagan and George W. Lafayette, do now withdraw from the said case as a party plaintiff in intervention, and consent that the cause of action set forth in said petition of intervention may be pro-

secuted and carried on by the heirs of the late Major-General Lafayette in their own names, as the sole plaintiffs, either in that suit or in any other.

JNO. HAGAN.

New Orleans, June 27th, 1851.

MOORE et als. v. E. BLANC. } Fourth District Court of New Orleans. No. 408.

I, John Hagan, of the City of New Orleans, one of the plaintiffs named in the Petition in Intervention, filed in the above-entitled case, by Thomas Curry, Attorney and Counsellor at Law, in the name of John Hagan and George W. Lafayette, do now withdraw from the said case as a party plaintiff in intervention, and consent that the cause of action set forth in the Petition in Intervention may be prosecuted and carried on by the heirs of the late Major-General Lafayette, in their own names, as sole plaintiffs, either in that suit or any other.

JOHN HAGAN.

New Orleans, June 27th, 1851.

MADAME PONTALBA v. EVARESTI BLANC. } Fourth District Court of New Orleans. No. 423.

I, John Hagan, of the City of New Orleans, one of the plaintiffs named in the Petition in Intervention, filed in the above-entitled case, by Thomas Curry, Attorney and Counsellor at Law, in the name of John Hagan and George W. Lafayette, do now withdraw from the said case as a party plaintiff in intervention, and consent that the cause of action, set forth in said Petition in Intervention, may be prosecuted and carried on by the heirs of the late Major-General Lafayette, in their own names, as the sole plaintiffs, either in that suit or in any other.

JNO. HAGAN.

New Orleans, June 27th, 1851.

Plaintiffs' No. 13, *in Rebuttal, offered 9th May*, 1853.

HAGAN AND LAFAYETTE v. CANAL BANK OF NEW ORLEANS, L. MELLANDON and Others. } No. 2621.

MOORE and als. v. E. BLANC. } Fourth District Court, New Orleans. No. 408.

MADAME PONTALBA
v.
E. BLANC.
No. 423.

GRIFFON et als.
v.
EVARESTI BLANC.

Whereas, an action was brought in the above-entitled case of Hagan and Lafayette *v.* The Canal Bank of New Orleans and als., and interventions were filed in the other above-entitled cases in the 4th District Court of New Orleans, by Thomas Curry, as Attorney and Counsellor at Law, in the name of John Hagan and George W. Lafayette, who were joined therein as plaintiffs, and who therein claimed the property described in the said Petition and Intervention; and whereas, John Hagan and the heirs of General Lafayette are desirous of prosecuting their claims in the name of Lafayette only as plaintiffs, and the said John Hagan is willing to withdraw from the said action, and leave the same to be prosecuted in the name and under the direction of the heirs of Lafayette, as the sole plaintiffs in the same, but without admitting that he is not entitled to a portion or undivided interest of, in, or to the said property, or in any manner abandoning or relinquishing any right, title, or interest which he may have in or to the same. Therefore, it is now agreed and understood between the said John Hagan, acting for himself, and George Eustis, Junior, representing the said heirs of Lafayette, in virtue of a power of attorney, dated Paris , 1851, as follows, to wit:

1st. That the said John Hagan shall withdraw his name from the said action and interventions, and for that purpose now signs written consent so to do, and withdrawals to be filed in the said suit, in order to carry out this agreement and understanding, and leaves the same to be prosecuted and carried on under the direction of the said heirs of Lafayette.

2d. That the said suit shall be prosecuted under the direction of the heirs of Lafayette.

3d. That the said Hagan reserves to himself all the right, title, and interest which he can or may have in and to the said property, in virtue of any title, act, or instrument in writing, and derived in any way from the said Major-General Lafayette, and that it is understood by the said heirs of Lafayette that the said John Hagan shall be at liberty to prosecute any such claim against the said heirs (who deny the existence of any such, however), without being in any manner affected by this agreement and understanding.

Made on this day, the 30th day of June, eighteen hundred and fifty-one, in the City of New Orleans.

(Signed) JNO. HAGAN,
GEO. EUSTIS, JR.

Witness,
WM. H. HAGAN.

1294

State of Louisiana, City of New Orleans:

Be it known that I, Achille Chiapella, a Notary Public in and for this City and Parish of New Orleans, duly commissioned and sworn, do hereby certify the foregoing to be a true copy of the original document annexed to an act of deposit in my office, under date of the thirtieth of June, eighteen hundred and fifty-one. In faith whereof I grant these presents, under my signature, and the impress of my seal of office, at New Orleans, this eighth day of May, eighteen hundred and fifty-three.

[L. S.] A. CHIAPELLA,
Not. Pub.

Plaintiffs' No. 14. *Offered in rebuttal, 9th May, A. D.* 1853. *Claim of the Mayor, Aldermen, and Inhabitants of the City of New Orleans.*

To the Honorable, the Register and Commissioners of the Eastern Land District of the Territory of Orleans:

The Mayor, Aldermen, and Inhabitants of the City of New Orleans, by Peter Derbigny and Lewis Kerr, their Attorneys in this behalf, duly constituted and appointed under the Corporate Seal of the said city, as more fully appears by a certified copy of their Letter of Attorney herewith exhibited (marked No. 1), and offered for the purpose of being recorded at the office of the said Commissioners in the said city, this twentieth day of October, in the year of our Lord One thousand Eight hundred and Six, Represent and give notice, that when the said city was first established, during the dominion of France in this country, a large tract of land in the vicinity of said city, to wit: A tract bounded on the north and east by lands granted to individuals at the settlement at the Bayou St. John; other lands granted to individuals on the road leading from said city to the said settlement, and other lands of —— Marigny, at the lower end of said city; on the west by the Bayou St. John; and on the south by certain lands formerly granted the Jesuits; which tract is designated on the plat herewith exhibited (marked No. 2), and offered for the purpose of being recorded, by the red lines L, T, O, P, Q, 6, A, R, S, was demised and granted to the inhabitants of the said city, to be by them held and *and* as a common forever.

That by reasons of the great distractions which prevailed in this country at the time of the cession thereof to Spain, the frequent destruction of the said city by fire since that time, when many of the public records were lost, and the numberless other casualties to which written evidences of title of so old a date are liable, the same with regard to the aforesaid title of the said inhabitants of the said city, to the possession and use of the said common as aforesaid, or any direct testimony relating to the same, although diligently searched for, has not been found.

But that, as the said inhabitants have, at all times since the establishment of the said city, been in the undisturbed possession of and use of the said land as a common as aforesaid, by and with the permission and under the authority of the proper French and Spanish officers, from time to time, without interruption or question of their rights aforesaid; and they have cleared, reclaimed, and improved the same throughout as far as the nature of the same would admit of; there arises a just and reasonable presumption of their original title to the premises, and by the right of proscription have become and are lawfully and justly entitled to continue to hold, use, and enjoy the same, as aforesaid, in conformity with the laws, usages, and customs of the Spanish government and of the country, all which is matter of public notoriety; but for greater certainty on this behalf, a certified extract from the records of the Spanish Colonial Government here (marked No. 3), and a translation thereof in the English language (marked No. 4), and also a public despatch of the King of Spain (marked No. 5), and a translation thereof in the English language (marked No. 6), are herewith exhibited, and offered for the purpose of being recorded; by which documents it does appear fully, that the aforesaid right, title, and claim of the said inhabitants have been from time to time recognized, acknowledged, ratified, and confirmed by the proper authorities in that behalf.

It is therefore prayed, that your Honorable Board may make inquiry into the validity of the said claim, and for that purpose examine such witnesses and other testimony as may be necessary in that behalf; to the end that you may decide and certify that the said claim is valid, according to the form of the statute in that case provided.

(Signed) P. DERBIGNY,
LEWIS KERR.

Land Office, New Orleans, 4th February, 1853.

I hereby certify the foregoing to be a true copy of the original, which was filed in this office on the 20th of October, 1806, under Number 175.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

[For Map marked A, see original, page 155.]

Plan of the verification of surveys, begun in 1796 by order of the Governor-General, the Baron de Carondelet, and continued by order of the Governor, Don Manuel Gayoso de Lemas, until the 4th December, 1798, for the purpose of ascertaining the titles and the boundaries of the lands surrounding the commons of the city of New

Orleans; which operations were performed in presence of the town Mayor, named by the government, Messrs. Riano and Delicant, *Regidors* Commissioners, officially named by the city Council, and Mr. Fonvergne, City Attorney, who all accompanied my operations, after taking cognizance of the titles to us presented.

Charles Trudeau, being duly sworn, says and declares that he was Chief Engineer to his Catholic Majesty, and that the plan on the other side is a copy of an original plan now deposited in the archives of the Corporation of the City of New Orleans, which this deponent drew up on the 24th December, 1798, by order of Mr. the Baron de Carondelet, then Governor of the provinces of Louisiana and West Florida, for the purpose of ascertaining and fixing the commons of the City of New Orleans; which plan the deponent at that period handed into the City Council (*Cabeldo*), adding to this copy but a few observations for the better understanding of the operation.

(Signed) CHARLES TRUDEAU.

Sworn before me.

JOHN WATKINS, Mayor.

New Orleans, 14th October, 1806.

Land Office, Southeastern District of Louisiana.

I, Louis St. Martin, Register of the Land Office at New Orleans, do hereby certify the above plat of survey to be a true copy taken from the records of my office; the same having been recorded in this office as part of the evidence produced in support of the claim of the City of New Orleans, No. 175. In faith whereof I hereunto subscribe my name this 11th day of November, 1847.

LOUIS ST. MARTIN,
Register.

Document No. 4.

Extract from the Register, of the deliberations of the Cabeldo (State council), 15th July, 1796.

There was read a representation made by the Attorney-General, setting forth that there were continual complaints of the inhabitants of this city, saying the inhabitants bordering upon the commons of this city, prevent them from cutting wood on the said commons, under the pretence that the same belong to them (the inhabitants bordering on the commons), and that if it were so, the city would lose all their commons, or the greater part thereof, and that nobody was invested with sufficient power to grant away the same; that in case there should have been some grants made since the Province came under the dominion of our august King, they were to be considered null and of no effect, and all the portions which have been so granted

against law ought to be united to the commons aforesaid. The said Attorney-General said he was of opinion that a general survey and a demarcation of all the lands belonging to the community should be made according to the plan which shows the situation of the inhabitants on the border; that they shall be compelled to show their titles, and that those who shall be unable to show lawful titles be dispossessed, and that a petition be presented to his Excellency, the Governor, to that effect, praying that his Excellency may be pleased to issue his orders thereon; and the members of the said Cabeldo, after having heard the contents of this representation, granted the prayer of the Attorney-General, and resolved that after having previously given a certificate of their assent to the said representation, the same be transmitted to the Governor and President, that his Excellency be requested to order that the object of the said prayer be carried into effect. Signed in the original, the Baron de Carondelet, Manuel Perez, Carlos de Lachaise Andres, Almonester y Rocas, G. Fonvergne, Francis Pascalles de Labarre, Wm. Ferstall, Rl. J. Ducros Befinson, Peter Pedesclaux, clerk of the Cabeldo.

I certify that the present extract is conformable to the original, on file in the archives of the city.

(Signed) BOURGEOIS.

New Orleans, September 9th, 1806.

I certify that the present translation has been well and truly made, to the best of my ability.

L. MOREL,

New Orleans, September 14th, 1806. Translator of the Supreme Court.

Document No. 6.

The King to the Governor, Civil and Military, of the Province of Louisiana, in the City of New Orleans: I thought proper to forward to your predecessor, on the 21st day of December, 1797, a Royal letter patent of the following tenor, viz.: "The King to the Governor, Civil and Military, of the Province of Louisiana, residing in the City of New Orleans. In a memorial dated the 13th of March, in the last year, your predecessor, the Baron de Carondelet, informed us that the frequent and almost unavoidable robberies which are committed in this capital (where vagrants of all nations abound, because the country being open on all sides, the trade which is carried on with the Americans of the Western countries down the Ohio to the Mississippi, and with the several European nations, draws many sailors and other foreigners there), obliged him to propose to the Cabeldo to establish town lamps, in imitation of those at Havana, and the capitals of the Provinces of these Kingdoms, where they are less regarded than in New Orleans. That the population not amounting to six thousand souls, it was necessary to seek less expensive means, and such that all the inhabitant should contribute according to their means towards the expenses of the town lamps and of the watch-

men; and that it having appeared to the Cabeldo that an annual tax of nine reals for each chimney would answer the purpose, as it was to be paid by the tenants or city inhabitants, the partition of the $3897 and four reals, which were the amount of the annual keeping of 13 watchmen and 80 lanterns, was made accordingly, and the sum of $2178, to which the price of the lamps amounted, and all that was necessary for supporting the town lamps according to the conditions specified in the agreement annexed to the memorial, were taken out of the funds of the city. That this establishment was immediately felt to be useful and attended with great success, the robberies having been discontinued since that time, but that one part of the city having unfortunately been reduced to ashes by the great fire of 1794, it was questioned whether the town lamps and watchmen should be suppressed on account of the augmentation of expenses and the diminution of the persons contributing, caused by the diminution of houses; however, the circumstances of the war, the necessity of continually watching over a city composed most part of French, and of preventing the nocturnal meeting either of them or of the slaves, induced the continuance of that useful establishment on the same footing; and your predecessor was fortunate enough to find that both the Cabeldo and the inhabitants approved of the augmentation which he proposed of three reals per chimney, which made a total of twelve reals per chimney, to be paid whilst the principal part of the city should be rebuilding; and when the burnt houses should be rebuilt and re-established as they were previous to the fire, the tax was to be reduced to the original sum of nine reals, and even to less when the number of houses should augment. That if I should be pleased to approve that the three hundred *toises* of the commons adjacent to the city near its fortifications, which then produced nothing, because they were overflowed during six months in the year, at least should be divided into small lots, not exceeding sixty toises in front and one hundred and fifty in depth, and granted to the inhabitants, who should offer themselves to cultivate them, provided that they would pay a small annual rent to the public treasury, for the support of the town lamps, it being manifest, 1st, that in a few years, the whole circumference of the city would be raised above the level of the waters, which would be drained by the owners of the lots, digging ditches to carry off the water to the canal, which was nearly finished. 2dly, that the many putrid tertian and quartan fevers, caused by the corruption of the stagnant waters and by pools, in the months of July, August, and September, attended with great many deaths, would be expelled from the city. 3dly, that many poor, who had no means of subsistence, would devote themselves to cultivating garden vegetables, the abundance of which is very important in a hot and damp country, which is consequently exposed to scurvy. 4thly, that the product of the same gardens would augment the funds of the city, which scarcely amounted to $7000 a

year, and would not be sufficient to meet their expenses, if I should not permit these last-mentioned funds to be applied to the reduction of the contribution for the town lamps. That so many evident advantages were more than sufficient to unite all the votes in favor of the use which was proposed to be made of that part of the lands adjacent to the capital. However, when he consulted the inhabitants, he found the greatest part of them inclined to leave things on the footing in which they were; but he knew that this proceeded from the particular interest of those who, having plantations near the city, or gardens in the city, feared that the abundance of garden vegetables would reduce the price of them, which they always kept up at the same rate, and so high that the poor could not enjoy an element so necessary to their health; and this is the very reason which induces my royal mind to order that the aforesaid three hundred *toises* of the lands adjacent to the city, situated contiguously to it, should be divided into small lots, which should be sold by public auction for ten years, each lot to the highest bidder, provided that every tenant should oblige himself to cultivate it and make a garden of it. Your predecessor, hoping that in consideration of the public good and of humanity, I would be pleased to order that a decree be issued that the same be executed, and also to approve and give my royal approbation to the expenses which had been incurred for the establishment of town lamps and watchmen, and to the contribution beforementioned; after having taken the same into consideration in my Council of the Indies, and taken advice from the Royal Treasury in consequence of what was represented to me by my fiscal, after due deliberation thereon, on the 20th of December, of the last year, I resolved to approve the establishment of town lamps and watchmen. As also the expenses incurred for the purchase of the 60 lanterns, with what was necessary for the support of the same, which may be charged as they have been to the city funds, on account of the extreme poverty in which the inhabitants now are; and the contribution for the town lamps and watchmen shall be established and assessed by the owners of houses, according to the number of their chimneys. As for what is relative to the division or sale at public auction of the three hundred *toises*, I order you to execute the same in presence of, and after having thereof given notice to the Cabeldo and the Attorney Syndic General, and that you give me an account and a copy of the proceedings, informing me of what may occur; such is my will. Done in Madrid, 21st of December, 1797. I, the King, by order of the King, our Lord Anthony Ventura de Taranco."

Afterwards by a letter of the 9th of May, in the following year, 1798, you give information with documents, that, considering that the reluctance with which the inhabitants of this capital contributed and paid their monthly real per chimney, for the support of the town lamps, proceeded from the contributions falling upon the poor, because their houses are small and all of them required chimneys,

you had established, in virtue of the proposition made in the City Council, which you had convoked for that purpose, a new contribution upon the meat and bread, because this contribution on the 1st Art. did not cause the smallest prejudice to the inhabitants, since it was levied upon the extraordinary profits of the butchers, and was imperceptible; on the 2d Art. as it was reduced to two drachms on each loaf, and the poor did not feel that augmentation, bread being used by them only as a luxury—their daily food consisting of rice and Indian corn, and the foreigners who enjoyed that benefit would contribute by these new means; and you prayed me to approve the aforesaid contribution. After having taken this into consideration in my council, and upon the information given to me on that subject by the Royal Treasury, and the representation made me by my fiscal, it has appeared to me proper to repeat to you my within royal decree, and to give you notice that you have exceeded your powers, in carrying into effect the measure proposed, without waiting for my royal approbation, contrary to the dispositions of the law 53, tit. 3, lib. 4th, and law 1st, tit. 15th, lib. 4th. And I order you, that in concert with the Cabeldo and the Assessor, you compose a written instrument explaining the reasons why the aforesaid new plan of contribution is preferable to that established on chimneys, that the produce of the said new contribution in meat and bread be ascertained, and also the expenses of town lamps and watchmen, that the said contribution be diminished or augmented as the case may require; such is my will, and it is also my will that the present be recorded by the Royal Treasury. Done in Aranjiur, nineteenth of May, one thousand eight hundred and one. I, the King. By order of the King our lord.

ANTONIO FORCAL.

To the Governor of Louisiana, repeating to him the royal decree, which is cited, by which his predecessor had the establishment of town lamps and watchmen in the capital approved, and also the expenses for the purchase of eighty lamps, &c.

The within was recorded in the Department Septentrional of the Royal Treasury of the Indies, Madrid, June 18th, 1801.

PEDRO APARICY.

Upon receiving the Royal Decree of his Majesty, and of the Lords of his Supreme Council of the Indies, and the same being read by his Honor after the usual formalities, he said that he obeys with due respect and veneration to it, and that, what is thereby decreed shall be complied with and executed. That a copy of it shall be sent to the most illustrious City Council, that upon their having deliberated on the subject mentioned in it, they may expose what they think most convenient, and that the Attorney Syndic General shall be directed to show that the new imposition established for the town lamps, is of a greater utility than the other, and to state

further what may serve to illustrate the matter or question.—Manuel Salcedo, Nicolas Maria Vidal. Ordered by Manuel Salcedo, Colonel of the royal armies, &c., upon consultation of the Auditor of War. New Orleans, 9th of April, 1802.

PETER PEDESCLAUX,
Notary Public.

I certify that the present translation has been well and truly made to the best of my ability. New Orleans, September 14th, 1806.

L. MOREL,
Translator of the Supreme Court.

Land Office, New Orleans, 7th February, 1853.

I hereby certify the foregoing to be a true copy of the evidence in support of the claim of the Mayor, Aldermen, and Inhabitants of the City of New Orleans, No. 175, of Record in Books Nos. 1 and 2, in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

[Note.—There is no signature to the above certificate.]

And after the evidence was closed, the plaintiffs asked the Court to decide, as if instructing a jury, upon the evidence as follows:

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court, Eastern District of Louisiana.

Decisions asked by the plaintiffs, as if the Court were instructing a jury, if the facts had been submitted to a jury that,

1st. The Acts of Congress, approved March 3, 1803, March 27, 1804, March 2, 1805, and April 20th, 1806, granted 11,520 acres of land to Major-General Lafayette, and gave him the right to locate and survey the same on any lands, the property of the United States, in the territory of Orleans, at his option.

2d. The right to locate 506·66 acres, was exercised by the said Lafayette on the 26th day of November, 1807, by locating the same in the office of the Register of the Land Office at New Orleans, "On the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the Corporation of the said City, round the fortifications of the same," which said location embraced all the land enclosed within the lines represented by the letters A, B, N, Q, O, F, I, T, M, and H, on the plat or plan of survey filed in the Land Office at New Orleans, with the claim made on the 20th

of October, 1806, under Acts of Congress, by the Mayor, Aldermen, and Inhabitants of the City of New Orleans, No. 175, and lying back of a line drawn between the side lines of side claims, at a distance of 600 yards from and in the rear of the former fortifications of the said city, and appropriated the same to satisfy the said location of Lafayette, and gave him an absolute and indefeasible right to complete his title thereto by surveying the same, and obtaining a patent therefor, if the land embraced in the said lines was the property of the United States, on the said 26th day of November, 1807.

3d. The provisions contained in the 3d Section of the Act of Congress, approved March 3, 1807, were a legislative declaration that the land embraced in the claim made by the Mayor, Aldermen, and Inhabitants of New Orleans, in the Land Office at New Orleans, on the 20th of October, 1806, No. 175, was the property of the United States, and reserved and withheld the said land, so far as it was not granted to the City of New Orleans by the said section of said act, from being appropriated or confirmed to claimants under the said Act of Congress, approved March 3, 1807, or any other Act of Congress, other than those claiming under French or Spanish grants.

4th. The grant made to Carlos Guardiola, on the 20th of May, 1801, by the Spanish authorities of Louisiana, was absolutely null and void, because there was no power in the grantors on that day to make such grant, and gave no right or color of right to the grantee, or any one claiming under him.

5th. The said grant shows that the said Carlos Guardiola was not a settler on the land described in the grant at the time of making said grant, and it is, therefore, not embraced in the proviso of the 14th section of the Act of Congress, approved March 3d, 1804.

6th. The said pretended grant to Carlos Guardiola, made on the 20th of May, 1801, as aforesaid, was in form a complete grant, and was not embraced in the provisions of the Act of Congress, approved April 13th, 1814, which confirmed, and was intended to confirm incomplete grants only.

7th. But if the said Act of 1814, did in fact embrace grants of the character of the said pretended grant to the said Guardiola, then a confirmation by and under the authority of the said act, would only be a relinquishment on the part of the United States, of any right which the United States might have had to the land covered by it, on the day of the approval of the said act, and could give no right to such land, if it had been before granted or disposed of, or appropriated by the United States, in favor of a third person.

8th. If the said act of 1814, did embrace grants of the character of the pretended grant to Guardiola, and if the said location, made by said Lafayette, on the 26th of November, 1807, did not vest the right to the said land in the said Lafayette, and appropriate the same to satisfy his said location, and give him an absolute and indefeasible right to complete his title thereto, by surveying the same, and obtaining a patent therefor; then the fee to the said land did not vest in the claimant on the passage and approval of the said act. The said act gave to the claimant only equitable right to obtain a patent from the government, transferring the fee in the manner, and on the terms and conditions specified in said act, and the fee remained in the government, and the said land remained, and was intended to remain subject to the disposal of the government, without restriction or limitation, until such patent was duly issued; and no patent having issued in favor of said claimant, the fee of said land was in the United States on the 4th of July, 1825, when it was transferred to, and vested in the said Lafayette, by the patent for the same, which was granted and delivered to him on that day, by the President of the United States.

9th. If the said grant to the said Guardiola was absolutely null and void, because of the want of power in the grantor to make the grant on the said 20th of May, 1801, then the possession of the tract of land fronting on said Bayou Road, and belonging to him before the date of said grant, which was acquired by actually occupying the front of the same, to the depth of 3½ or 4 arpents, did not extend to any part of the land embraced in the said grant, and the recital in the act of sale from Guardiola to Fleitas, and in the act of sale from the heirs of Fleitas to Kenton, that the said tract of land was held or pretended to be held under a concession claimed from Ramon Lopez y Angula, Intendent of the Provinces of Louisiana and Florida, for the King of Spain, on the 20th of May, 1801, was notice to them that the said grant was absolutely null, and they acquired no greater rights under the said sale, than were had by the said Guardiola, and the possession by the said Fleitas, of the said tract fronting on the Bayou Road, which belonged to the said Guardiola before the date of the said grant, and the front of which on said Bayou Road, he actually occupied to the depth of 3½ or 4 arpents from said road, did not give him any possession of the land lying back of said front tract, and embraced in said grant, and the said Kenton acquired no possession of any portion of the land embraced in said grant by virtue of said act of sale from the heirs of said Fleitas to him.

10th. The sales made by the said Carlos Guardiola to Domingo Fleitas, on the 5th of June, 1805, and by the heirs of Fleitas to Joseph Kenton, on the 19th of May, 1835, of the land embraced in the said grant, disclose the want of title on the vendors, and cannot serve as the basis of the prescription of ten and twenty years.

11th. The titles under which the said Guardiola and Fleitas pretended to hold, and the said Kenton and others now pretend to hold the land claimed by plaintiffs, being absolutely null and void, the prescription of thirty years cannot run in their favor for any portion of the said land, unless the defendants' show an actual corporal possession of the same by themselves, or those under whom they claim, and if such possession of any part of said land be shown, then the said prescription of thirty years could only run in their favor with respect to the portion or portions actually possessed by enclosures.

12th. Digging canals or ditches, and felling trees, or the occasional cutting of wood, does not constitute such possession as can be the basis of the prescription of ten, twenty, or thirty years.

13th. The patent from the United States to General Lafayette, granted on the 4th day of July, 1825, vested the legal seisin and constructive possession of all the land embraced in it in General Lafayette, which was on that day unimproved, and was not in the actual possession of any other person. And the said General Lafayette or his heirs, can only be divested of the possession so given by an actual entry upon the land by a third person, with the intent to acquire possession as owner.

14th. The effect of the patent granted to Lafayette cannot be destroyed or restrained by the views or belief of the said grantee as to the quantity or extent of the land embraced in it. And any expression made use of by Lafayette, showing his belief that the patent conveyed to him a smaller quantity or extent of land less than 503·88 acres, whether the same were made use of by him in acts or instruments in writing, or in letters, were used by him without the intention of renouncing any right which he might have acquired by his location and survey, and the said patent, and were the result of error of law and fact, and cannot in any way or manner affect, diminish, or restrain the operation of the said patent in his favor, or limit his right to the land described in said patent.

15th. Madame Pontalba, the heirs of F. J. Le Breton D'Orgenois, and the legal representatives of J. B. Macarty, having been legally seised of all the rights to the land described in the claims of J. B. Castillon, F. J. Le Breton D'Orgenois, and J. B. Macarty and B. Macarty, resulting from the confirmations of the same by the Board of Commissioners, and by Act of Congress, and there having been a judicial contest before a court of competent jurisdiction between the said Joseph Kenton and the author of his title, and the said Madame Pontalba, the said heirs of Le Breton D'Orgenois, and legal representatives of J. B. Macarty and B. Macarty, in which they the said Madame Pontalba, heirs of Le Breton D'Orgenois, and legal repre-

sentatives of J. B. Macarty and B. Macarty, claimed the land sued for in this suit by plaintiffs under the said notice of claims and confirmations in favor of J. B. Castillon, F. J. Le Breton D'Orgenois, and J. B. Macarty and B. Macarty, in which it was finally adjudged, by judgment long since having the force of *res judicata*, that the said Madame Pontalba, heirs of Le Breton D'Orgenois, and legal representatives of J. B. Macarty and B. Macarty, were without any title to the said land, the said claims and confirmations are not outstanding titles which can avail the defendants to bar the plaintiffs' recovery in this action, because they are not valid and subsisting legal titles, upon which a recovery of the land claimed by plaintiffs could be had from defendants in an action at law; and that

16th. Upon the whole evidence the plaintiffs are entitled to recover the land claimed from the defendants.

And the defendants objected to *the said several* propositions, and the Court decided as follows:

These instructions were overruled by the Court, and the Court thereupon, after comparing the evidence of title submitted by the defendants, consisting of the Acts of Congress applicable to their claims, and proceedings in the Land Office; the claims made therein and the confirmations of the same; and considering also the evidence of title existing in Madame Pontalba and Macarty, which claims were adduced as evidence of an outstanding and paramount title, with the evidence of title submitted by the plaintiffs, believes that the claim of the plaintiffs to the land mentioned in the petition has not been sustained, and the Court therefore decides in favor of the defendants; to which decision the counsel of the plaintiffs excepts, and prays the Court to sign and seal this Bill of Exceptions, which is done.

J. A. CAMPBELL,
Presiding Judge.

And the plaintiffs excepted to the decision of the Court sustaining the said objections to each and all of the said propositions.

And the Court on the day of May, 1853, rendered its judgment in this cause in the words and figures following, to wit:

And afterwards, to wit, on the 13th day of May, A. D. 1853, the following entry was made on the minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The Court this day delivered its opinion in these causes, and ordered that judgments be entered in conformity thereto.

Judgment, as recorded on the Minutes.

New Orleans, Saturday, 14th May, 1853.

Court met pursuant to adjournment.

Present—Hon. J. A. Campbell, Presiding Judge; Theodore H. McCaleb, District Judge.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.

This cause came on to be heard at this term of the Court, and was argued by counsel, on consideration whereof it is ordered, adjudged, and decreed, that plaintiffs' petition be dismissed with costs, and that there be judgment in favor of defendants.

And now on this day the plaintiffs asked a new trial in this case, on the ground that the judgment rendered therein is contrary to the law and evidence. And the Court overruled the motion for a new trial, to which the plaintiffs excepted. And the plaintiffs now ask that this their bill of exceptions may be signed, sealed, and enrolled; which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

And on the 25th of May, A. D. 1853, the following motion for a new trial was made, and duly entered of record on the minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of Griffon.
2143. Heirs of Lafayette *v.* D'Orgenois.

The plaintiffs, this day, come into Court, by their attorney, Miles Taylor, and moved for a new trial in these several causes, on the ground that the judgments rendered therein are contrary to the law and the evidence.

And on the 2d day of June, A. D. 1853, the following entry (of submission of the motion for a new trial) was made on the minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The applications herein made for new trials were this day submitted, without argument, and taken under advisement.

And on the 3d June, 1853, the Court overruled the motion for new trials, and judgment was recorded on the Minutes, as follows:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.

2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The applications herein made for new trials having been submitted to the Court, and the Court having considered the same, doth now order that said applications be overruled, and new trials refused.

Final judgment rendered on the 14th of May, A. D. 1853, and recorded in the Judgment Docket, and signed on the 3d day of June, A. D. 1853, in the words and figures following:

Circuit Court of the United States—Fifth Circuit and Eastern District of Louisiana. April Term, A. D. 1853.

New Orleans, Saturday, May 14, 1853.

Court met pursuant to adjournment.

Present: Hon. J. A. Campbell, Presiding Judge; Hon. Theo. H. McCaleb, District Judge.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.

This cause came on to be heard at this term of the Court, and was argued by counsel. On consideration whereof, it is ordered, adjudged, and decreed, that there be judgment in favor of the defendants, and that plaintiffs' petition be dismissed with costs.

Judgment rendered 14th May, 1853.—Signed, 3d June, 1853.

J. A. CAMPBELL,
Judge, &c. &c.

No. 2109. *Agreement as to Translations, &c. Filed* 16*th May*, 1854.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als. } No. 2109.
United States Circuit Court,
Eastern District of Louisiana.

It is agreed, by the parties in this case, that all the notarial acts, instruments in writing, plans, documents, or other papers, which were given in evidence on the trial of the same by the parties, or which were offered in evidence, and being rejected by the Court, were embodied in the bills of exceptions taken by the parties, and which are in the French or Spanish languages, shall be translated by a competent translator into the English language, and that the translations so made, shall be filed and copied by the Clerk into the transcript of the Record to be carried up to the Supreme Court of the United States, on any writ of error which may be taken in the same, that the said notarial acts, instruments in writing, plans, documents, or other papers, shall not be copied in the original French and Spanish, and that the transcript so made up shall be

held and considered as legal and valid, as though the said translations had been made use of on the trial in place of their originals.

C. ROSELIUS,
For Defendants.

MILES TAYLOR,
For Plaintiffs.

Petition for Writ of Error, filed 24th June, 1854.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court, Eastern District of Louisiana. No. 2109.

To the Honorable the Circuit Court of the United States, for the Fifth Circuit and Eastern District of Louisiana:

The Petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Bureaux de Pusey, and of the said Maurice Bureaux de Pusey, who joins and assists his *his* wife herein; of Nathalie Rene Emelie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmund Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bounenier de Beaumont, and of the said Auguste de la Bounenier de Beaumont, who joins and assists his said wife herein; of Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, and of the said Charles Francois Marie de Remusat, who joins and assists his said wife herein; of Francois Melanie de Lasteyrie du Saillant, wife of Charles Francois Philibert Tireny de Corcelle, and of the said Claude Francois Philibert Tireny de Corcelle, who joins and assists his said wife herein, and of Adrienne Jules de Lasteyrie du Saillant, all citizens of the Empire of France, residing at Paris; and of Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Troy de la Tour Maubourg, a citizen of the kingdom of Sardinia, residing in Turin, the heirs and legal representatives of the late Major-General Lafayette, respectfully shows, that, in the above entitled case, No. 2109 of the docket of this Court, wherein Petitioners were plaintiffs, and Joseph Kenton, Nathaniel E. Bailey, Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annette Scates, Margaret Scates, Mary Walker, Gerde H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector McNeill, Christian R. Stumps, M. M'Caitiff and Patrick Lawler, were defendants, a final judgment was rendered against petitioners by this Honorable Court, on the 14th day of May, 1853, and signed on the 3d of June, same year;

that they are informed and believe there is error in said judgment to the prejudice of petitioners, and that they are informed and believe that they have a right to have the said judgment reviewed and examined by the Supreme Court of the United States, on a Writ of Error.

Wherefore, Petitioners pray that a Writ of Error be allowed them, returnable to the next term of the Supreme Court, on their furnishing bond, conditioned according to law, with security, in such sum as *as* may be fixed by the Court.

MILES TAYLOR and GEO. EUSTIS, JR.,
Attorneys for Plaintiffs.

Order.

Let a Writ of Error be allowed, on plaintiffs giving bond, conditioned according to law, in the penal sum of five hundred dollars, with good and solvent security.

J. A. CAMPBELL,
Asso. Justice of the Sup. Court of the U. S.

Bond for Writ of Error. Filed 24 June, 1854.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.
} United States Circuit Court, Eastern District of Louisiana.

Know all men by these presents, that we, Charlotte Matilde Dumottier de Lafeyette, wife of Maurice Bureaux de Pusey, and the said de Pusey, who joins and assists his said wife herein; Nathalie Rene Emelie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and the said Perier, who joins and assists his said wife herein; Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clemence Adriene Dumottier de Lafayette, wife of Auguste de la Bounenier de Beaumont, and the said de Beaumont, who joins and assists his said wife herein; Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, and the said de Remusat, who joins and assists his said wife herein; Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and the said de Corcelle, who joins and assists his said wife herein; and Adriene Jules de Lasteyrie du Saillant, all citizens of the Empire of France, residing in Paris; and Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Troy de la Tour Maubourg, a citizen of the Kingdom of Sardinia, residing in the Turin; the heirs and legal representatives of the late Major-General Lafayette, deceased, as principals, and William H. Hagan, residing in the City of New Orleans, as security, are held and firmly bound unto Joseph Kenton,

Nathan E. Bailey, Thomas Finn, Patrick Farley, Nicholas M. Benachi, Eugene Rochereau, William Penn, Hector M'Neill, Robert Frazier, Patrick Lawler, Charles De Blanc, Mary Walker, Samuel Locke, Jean Aldige, C. R. Stumpf, Alexander Scates, for self, and as administrator of and for his minor children, Annette Scates and Margaret Scates, and Thomas Murphy, Caroline E. Long, f. w. c., Patrick Murphy, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Bernard Duffy, Gerde H. W. Lehde, Widow A. E. Lesseps and M. M'Caitiff, in the sum of five hundred dollars, lawful money of the United States, well and truly to be paid by us the said parties of the first part, the obligors, to the said Joseph Kenton and others, the obligees, for which payment, well and truly to be made, we bind ourselves and each of us, by him or herself and our heirs, by these presents.

Sealed with our seals, and dated on the 24th day of June, in the year eighteen hundred and fifty-four.

And whereas, the said Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Bureau De Pusey, and the other obligors, the heirs and legal representatives of the said Major-General Lafayette, have this day presented a petition to the Honorable, the Circuit Court of the United States, in the Eastern District of Louisiana, praying for a writ of error in the case entitled: Heirs of Lafayette vs. Joseph Kenton et als., No. of the docket of said court, wherein the said Charlotte Mathilde Dumottier de Lafayette, and the other obligors were plaintiffs, and the said Joseph Kenton, and the other obligees were defendants, which said case was decided against the said Charlotte Matilde Dumottier de Lafayette, and the other obligors, plaintiffs as aforesaid, at the term of the court.

Therefore, now, the condition of the above obligation is such that if the above bounden heirs and legal representatives of the said Major-General Lafayette, shall prosecute the said writ of error, and well and truly pay to the said Joseph Kenton and the other obligees, defendants in said *in the said* case, all such damages as they may recover against the said plaintiffs and obligees herein, in case it should be decided that the said writ of error was wrongfully obtained, and the judgment heretofore rendered against them should be affirmed, then to be void, otherwise to remain in full force.

GEO. EUSTIS, JR.,
Attorney in fact of Heirs of General Lafayette.

WILLIAM H. HAGAN,
Security.

Agreement endorsed on the foregoing Bond.

We have no objection to the within Bond, and consent that the same be recorded as sufficient.

C. ROSELIUS,
For Kenton and others.

United States of America—Circuit Court of the United States: Fifth Circuit and Eastern District of Louisiana.

Clerk's Office.

I, John W. Gurley, Clerk of the Circuit Court of the United States, for the Fifth Circuit and Eastern District of Louisiana, do hereby certify, that the foregoing 177 pages contain and form a full, complete, true, and perfect transcript of the Record and Proceedings had, on the trial of the case of the Heirs of Lafayette *v.* Joseph Kenton and others, No. 2109 of the Docket, so far as the same now remain of record or on file in said Court.

Witness my hand and the seal of said Court, at the City of New Orleans, this 25th day of November, A. D. 1854.

[L. S.] J. W. GURLEY, Clerk.

I, Theodore H. McCaleb, United States Judge for the Eastern District of Louisiana, do hereby certify, that John W. Gurley, whose name is signed to the above certificate as Clerk of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, was, at the time of signing said certificate, and is now, the Clerk of said Court: That said certificate is in due form of law, and that full faith and credit are due to his official attestations as such Clerk.

Given under my hand and seal, at the City of New Orleans, in said District, this 25th day of November, A. D. 1854.

[L. S.] THEO. H. McCALEB.

United States of America, ss: The President of the United States, to the Honorable the Judges of the Circuit Court of the United States in and for the Fifth Circuit, and holding Sessions for the Eastern District of Louisiana. Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court before you, or one of you, between Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Réné, Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lesteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lesteyrie du Saillant, wife of Claude

Francois Philibert Tereny de Corcelle, Claude Francois Philibert Tereny de Corcelle, Adrienne Jules de Lesteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Mauberg, heirs and legal representatives of the late Major-General Lafayette,

And Joseph Kenton, Nathan E. Bailey, Charles de Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annette Scates, Margaret Scates, Mary Walker, Gerd H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector McNeill, Christian R. Stumps, M. McCaitiff, and Patrick Lawler,

A manifest error hath happened, to the great damage of the said Charlotte Mathilde Dumottier de Lafayette, and others above named, heirs and legal representatives of the late Major-General de Lafayette, as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-fourth of June, in the year of our Lord one thousand eight hundred and fifty-four.

J. W. GURLEY,
Clerk of the United States Circuit Court for Eastern District of Louisiana.

[Endorsed on above.]

United States Circuit Court, 2109. Heirs of Lafayette *vs.* Joseph Kenton & als. Writ of Error, filed 24th June, 1854. J. W. Gurley, Clerk.

The United States of America.—The President of the United States to Charles Deblanc and Bernard Duffy, Joseph Kenton, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annette Scates, Margaret Scates, Mary Walker, f. w. c., Gerd. H. W.

Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector McNeill, Christian R. Stumpf, M. McCaitiff, and Patrick Lawler. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the Heirs of Lafayette, to wit:

Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Réné, Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tereny de Corcelle, Claude Francois Philibert Tereny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Mauberg, heirs and legal representatives of the late Major-General Lafayette, deceased, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

HEIRS OF LAFAYETTE *vs.* JOSEPH KENTON et als. } No. 4.—United States Circuit Court. No. 2109. Citation in Error.

Marshal's Return.

Received, July 13th, 1854, and on the 24th day of October, 1854, served the within on Charles De Blanc, by delivering a copy thereof to Caroline Raigio, wife of the said Charles De Blanc, and a free white person over the age of fourteen years, at the domicil of said Charles De Blanc, in the City of New Orleans, *he being absent at the time.* And on the first day of November, 1854, served the within on the within-named Bernard Duffy, by delivering to him personally

a copy thereof, at the City of New Orleans, and returned 2d November, 1854.

J. P. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States, to Patrick Murphy and Theodore Frois, Joseph Kenton, Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Nicholas M. Benachi, Nathan E. Bailey, John Creiser, Timothy Quinn, Eugene Rochéreau, Annette Scates, Margaret Scates, Mary Walker, f. w. c., Gerd H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector McNeill, Christian R. Stumpf, M. McCaitiff, and Patrick Lawler, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the Heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Réné, Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie de Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie de Saillant, wife of Claude Francois Philibert Tereny Corcelle, Claude Francois Philibert Tereny Corcelle, Adrienne Jules de Lasteyrie de Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, deceased, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said suit of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

HEIRS OF LAFAYETTE *vs.* JOSEPH KENTON et als.	No. 3, United States Circuit Court. No. 2109. Citation in Error.

Marshal's Return.

Received, July 13th, 1854, and on the 24th day of October, 1854, served the within on Theodore Frois, by delivering to him personally, a copy of the same, in the City of New Orleans.

J. M. KENNEDY,
U. S. Marshal.

By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States, to Gerde H. Lehde, Widow A. E. Lesseps, M. McCaitiff, Joseph Kenton, Charles De Blanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Fraley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annette Scates, Margaret Scates, Mary Walker, William Penn, John Aldige, Robert Frazier, Samuel Locke, Hector McNeill, Christian R. Stumpf, and Patrick Lawler, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States, for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," viz.: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Réné, Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Troy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against

1305

the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,

Asso. Justice of the Supreme Court of the United States.

HEIRS OF LAFAYETTE *vs.* KENTON et als.	No. 1, United States Circuit Court, No. 2109. Citation in Error.

Marshal's Return.

Received, July 13th, 1854, and on the 24th day of October, 1854, served the within on Gerd H. W. Lehde, by delivering a copy thereof to G. Krasti, a clerk of said Lehde, and who is a free white person, over the age of fourteen years, at the store of said G. H. W. Lehde, in St. Charles Street, City of New Orleans; said Lehde being absent at the time.

J. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy U. S. Marshal.